124-65

124-656

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 172.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN,
PLAINTIFFS IN ERROR,

vs.

ADOLPH E. SCHMIDT.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

FILED NOVEMBER 4, 1884.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 172.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN, PLAINTIFFS IN ERROR,

vs.

ADOLPH E. SCHMIDT.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

INDEX.

	Original.	Print.
Caption	*a*	1
Writ of error	1	1
Citation	2	1
Proof of service of citation	2*a*	2
Bond	3	2
Pleadings	6	3
Stipulation waiving jury, &c.	9	4
Findings	11	5
Judgment	24	11
Evidence	25	12
Testimony of Arthur Spielmann	26	12
Statement of exhibits	36	17
Laws and ordinances offered	44	21
Stipulation as to testimony of Wm. W. Shippen	49	25
Testimony of William W. Shippen	51	25
Statement of exhibits of plaintiff	82	41
Exhibit P¹—Large map, made by Post, Spielman & Brush (not set out)	82	41
P²—Deed of Stevens *et ux.* to Creighton, April 10, 1805	82	41
P³—Deed of Stevens to Stevens, Feb. 1, 1822	82	41
P⁴— " " White, June 12, 1832	83	42

Judd & Detweiler, Printers, Washington, December 29, 1887.

	Original.	Print.
Exhibit P^5—Deed of Stevens *et al.* to H. L. & I. Co., May 6, 1839	83	42
P^6—Deed of H. L. & I. Co. to Livesay *et ux.*, Ap'l 1, 1849	86	43
P^7—Deed of H. L. & I. Co. to Idell, Oct. 25, 1851	86	44
P^8—Deed of H. L. & I. Co. to Kerrigan, Oct. 24, 1866	87	44
P^9—Deed of H. L. & I. Co. to Meyer, Nov. 12, 1866	87	44
P^{10}—Deed of H. L. & I. Co. *et al.* to N. Y. F. D. D. Co., Sept. 1, 1866	88	45
P^{11}—Deed of N. Y. F. D. D. Co. to Kuhne, trustee, Aug. 31, 1872	90	46
P^{12}—Deed of G. T. S. N. Co. to Schmidt *et al.*, Jan. 23, 1878	94	48
P^{13}—Deed of H. L. & I. Co. to N. G. Lloyds, April 23, 1872	97	49
P^{14}—Deed of Haring, agent, to Stevens, July 26, 1784	99	50
P^{15}—Loss' map, 1804 (not set out)	100	51
P^{16}—Appendix map to Exhibit P^1 (not set out)	100	51
P^{17}—Declaration of trust, Kuhne to G. T. S. N. Co., August 31, 1872	100	51
P^{18}—Deed of Stevens *et ux.* to Palmer *et al.* Sept. 19, 1860	102	52
Statement of exhibits of defendants	103	52
Exhibit D^1—Map of 1852 (not set out)	103	52
D^2—Deed of H. L. & I. Co. to C. & A. R. R. Co., Dec. 1, 1864	103	52
D^3—Deed of State of New Jersey to H. L. & I. Co., Dec. 21, 1869	110	56
D^4—Map showing shore front, &c., Oct. 29, 1878, (not set out)	115	58
D^5—Deed of State of New Jersey to Kuhne, trustee, Nov. 9, 1872	115	58
D^6—Act to enable united companies to improve lands, &c., March 31, 1869	126	64
D^7—Deed of State of New Jersey to H. L. & I. Co., May 11, 1872	127	65
D^8—Lease of State of New Jersey to M. & E. R. R. Co., April 28, 1874	139	70
D^9—Map filed under act Exhibit D^6 (not set out)	152	77
D^{10}—Map showing grants, &c., to M. & E. R. R. Co., (not set out)	152	77
D^{11}—Map made by Speilman & Brush, Oct. 22, 1878 (not set out)	152	77
D^{12}—Map of J. C. Payne, Aug. 1878 (not set out)	152	77
D^{13}—Part of Douglass map, copied by Earle (not set out)	152	77
Testimony of John C. Payne	153	78
Joseph D. Hall	157	80

	Original.	Print.
Testimony of John P. Lansing	159	81
Andrew Reasoner	160	82
Stipulation as to evidence	165	85
Extracts from ordinances	167	85
Stipulation as to evidence	170	87
Affidavit of value	171	88
Assignment of errors	172	89
Clerk's certificate	174	90

a United States Supreme Court.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN

vs.

ADOLPH E. SCHMIDT *et al.*

In error to the circuit court of the United States for the district of New Jersey.

1 UNITED STATES OF AMERICA *ss:*

[The Seal of the U. S. Circuit Court, Dist. of New Jersey.]

The President of the United States to the honorable the judges of the circuit court of the United States for the district of New Jersey, Greeting:

Because of the record and proceedings as also in the rendition of the judgment in a plaint which was in the said court before you or some of you, between The Mayor and Council of the City of Hoboken and Adolph E. Schmidt, of a plea of ejectment, manifest error hath intervened, to the great damage of the said The Mayor and Council of the City of Hoboken, as by their complaint appears, we, being willing that the error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what *if* right and according to
1a the laws and custom of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the third day of March, in the year of our Lord one thousand eight hundred and eighty-four.

S. D. OLIPHANT,
Clerk of the Circuit Court of the United States
for the District of New Jersey.

[Endorsed:] United States Supreme Court. The Mayor and Council of the City of Hoboken *vs.* Adolph E. Schmidt. In ejectment. Writ of error. Allowed March 3, 1884. Jno. T. Nixon, J. Ret'ble Oct. 13, 1884. William S. Stuhr, att'y.

2 UNITED STATES OF AMERICA, *ss:*

To Adolph E. Schmidt, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington on the second Monday in October next, pursuant to a writ of error filed in the office of the clerk of the circuit court of the United States for the third circuit and district of New Jersey, wherein The Mayor and Council of the City of Hoboken are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable John T. Nixon, one of the judges of the circuit court of the United States for the district of New Jersey.

Dated March 3, 1884.

JNO. T. NIXON,
District Judge.

2a [Endorsed:] United States Supreme Court. The Mayor and Council of the City of Hoboken *vs.* Adolph E. Schmidt. In ejectment. On writ of error to U. S. circuit court, district of New Jersey. Citation. William S. Stuhr, att'y.

I do hereby acknowledge service of a certified copy of the within citation and also of a certified copy of the writ of error in the within cause this seventh day of April, A. D. 1884.

W. J. A. FULLER,
Of Counsel.

3 Supreme Court of the United States.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN

vs.

ADOLPH E. SCHMIDT.

In ejectment.

Know all men by these presents that we, The Mayor and Council of the City of Hoboken, William H. Dilworth, and Charles F. Mattlage, all of the city of Hoboken, in the county of Hudson and State of New Jersey, are held and firmly bound unto Adolph E. Schmidt in the sum of five hundred dollars, to be paid to the said Adolph E. Schmidt, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, administrators, and successors, firmly by these presents.

Sealed with our seals. Dated this ninth day of February, in the year of our Lord one thousand eight hundred and eighty-four.

4 Whereas the above-named The Mayor and Council of the City of Hoboken hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the circuit court of the United States for the district of New Jersey:

Now, therefore, the condition of this obligation is such that if the above-named The Mayor and Council of the City of Hoboken shall prosecute its said writ of error to effect and answer all damages and costs if it shall fail to make good its plea, then this obligation shall be void; otherwise to remain in full force and effect.

WM. H. DILWORTH. [SEAL.]
CHARLES F. MATTLAGE. [SEAL.]
F. L. PIMKEN, *Mayor.* [L. S.]

Signed, sealed, and delivered in the presence of—
WILLIAM S. STUHR.

Attest: M. V. McDERMOTT, *City Clerk.*

5 (Endorsed:) United States Supreme Court. The Mayor and Council of the City of Hoboken *vs.* Adolph E. Schmidt. In ejectment. Bond. Approved March 3, 1884. Jno. T. Nixon, J.

6 *Judgment.*

United States Circuit Court, District of New Jersey.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT and LEOPOLD GOLDSCHMIDT.

In ejectment.

As yet of the first day of December, eighteen hundred and seventy-nine.

JOHN T. NIXON, *District Judge.*

Witness:
S. D. OLIPHANT, *Clerk.*

WILLIAM T. STUHR,
Attorney for Plaintiff.
LEON ABBETT,
Attorney for Defendants.

DISTRICT OF NEW JERSEY, *ss:*

7 The Mayor and Council of the City of Hoboken, the plaintiffs in this action, by Malcolm W. Niven, their attorney, demand of Adolph E. Schmidt and Leopold Goldschmidt, the defendants therein, the possession of all that certain lot, tract, or parcel of land and premises situate, lying, and being in the city of Hoboken, in the county of Hudson, and State of New Jersey, and bounded as follows: Beginning at the northeast corner of Hudson and First streets, as laid down on Loss' map of Hoboken, and running thence easterly along the northerly line of First street and a line in continuation thereof at right angles to Hudson street to high-water on the Hudson river; thence southerly along said high-water line to a point opposite the southerly line *to a point opposite the southerly line* of First street; thence westerly parallel to the first line to the south-

east corner of Hudson street and First street, and thence northerly along Hudson street to the place of beginning.

8 And the plaintiffs say that their right to the possession of the same accrued on the 29th day of November, eighteen hundred and seventy-nine, and that the defendants wrongfully deprive them of the possession thereof, to their damage one hundred dollars.

And the said defendants, by Leon Abbett, their attorney, appear and defend this action and say that they are not guilty of the injury whereof the said The Mayor and Council of the City of Hoboken have complained in their declaration, nor of any part thereof, and of this they put themselves upon the country, and the said The Mayor and Council of the City of Hoboken do the like.

9 Afterwards, to wit, on the thirtieth day of March, 1880, the parties aforesaid, by their attorneys aforesaid, waived a jury for the trial of the issues in the above cause by stipulation in writing then filed with the clerk of said court, of which the following is a copy:

Jury waived. Testimony may be taken before a U. S. commissioner or such other officer as parties may agree upon on five days' notice.

That the case is to be tried before Judge Nixon after the session of court of errors of New Jersey, either side having leave to move on five days' notice to fix day.

Evidence and pleadings to be printed.

Trial to be had subject to the right of both parties to take exceptions same as if it was a jury trial.

LEON ABBETT,
Att'y for All Except Penn. R. R. Co.
MALCOLM W. NIVEN,
Att'y for Pl'ffs in All Cases.
JAMES B. VREDENBURGH,
Att'y for Penn. R. R. Co.

10 Afterwards, that is to say, on the twenty-sixth day of May, in the year eighteen hundred and eighty-two, in the term of March, eighteen hundred and eighty-two, before the Honorable John T. Nixon, judge of the district court, at Trenton, in said circuit, come as well the within-named plaintiffs as the within-named defendant, by their respective attorneys within named, and produced before the said judge their respective witnesses, documents, and proofs upon the said issues, and the said judge, having heard the same and the argument of counsel thereon, retains the cause for advisement until the March term, eighteen hundred and eighty-three, of said court; and on the twenty-fourth day of May ,eighteen hundred and eighty-three, the following special finding of facts was made and filed by the court as the result of the evidence offered upon the trial of said issues:

11 United States Circuit Court, District of New Jersey.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT & AL.

In ejectment.

By NIXON, *District Judge:*

The Mayor and Council of the City of Hoboken brought six several suits in ejectment in the supreme court of New Jersey against the owners of land on the Hudson river, in front of said city, involving the right of the city to extend Newark street, First, Second, Third, and River streets over said land to the river front without making compensation in damages for such extension. These suits were removed into this court by the several defendants, and by stipulation between the counsel of the respective parties have been tried by the court without the intervention of a jury. The claim of the plaintiff is for an easement, and is based upon the dedication of certain streets, in the year 1804, by Col. John Stevens, who was then the owner of between 500 and 600 acres of land on the western shore of the Hudson river, where the city of Hoboken now stands, and who made "a plan of the new city of Hoboken, in the county of Bergen," and caused the same to be filed in the clerk's office of said county in the month of April, 1805. This plan, on the map known as the Loss map, exhibits a number of streets
12 running north and south, and a still larger number running east and west, all of the latter, except one, apparently terminating on the river front at their eastern end, and one of the former having a like terminus on the south. Since that date, and by legislative authority, the river bed below the ancient high-water mark has been filled in for a long distance to the east and south of the land included in the Loss map, rendering the navigable water inaccessible from the streets as therein laid out and dedicated. This controversy has reference to extending one of these streets, not named on the map, but now called River street, to the south, and four others, to wit, Newark street, designated on the map the Philadelphia post road, and First, Second, and Third streets, to the east, until they respectively reach the navigable water of the river. The city claims the right of extension by virtue and force of the Stevens dedication. The defendants resist it, asserting that the title of Col. Stevens was limited to high-water mark of the river in 1804; that the soil below the high-water mark, as it then existed, belonged to the State of New Jersey, which not only has never acquiesced in any easement over the land, but by various enactments has conferred upon the defendants or their grantors an absolute title inconsistent with any right of way in the public over the same. I find as questions of fact in the case—

(1.) That the tract of land on which the city of Hoboken has been mainly built was formerly the property of Col. John Stevens, and contained originally five hundred and sixty-four acres.

13 (2.) That in the year 1804 Col. Stevens, then being the owner of said tract, caused to be made "a plan of the new city of Hoboken, in the county of Bergen," known as Loss' map, which was filed in the clerk's office of the county of Bergen, in April, 1805.

(3.) That the public streets laid out on said map running east and west extended eastwardly to the high-water mark of Hudson river as it then existed.

(4.) That the only street thereon running north and south which concerns the present controversy is now called River street, and its southerly terminus on the map was at the high-water mark of said river.

(5.) That subsequent to the filing of said map Col. Stevens conveyed several lots or parcels of the land shown thereon to different persons, and describing the lots so conveyed by reference to the map and the streets delineated thereon, and that other owners deriving title from or under him have since conveyed lots within said plan, describing the same by reference to the map and streets.

(6.) That at the time of the filing of said map in the clerk's office the title to all the land fronting the said Stevens property and lying between high and low water mark of the west bank of the Hudson river was in the State of New Jersey.

(7.) That "The Hoboken Land and Improvement Company" was incorporated by the Legislature of said State by an act entitled "An act to incorporate the Hoboken Land and Improvement Com-
14 pany," approved February 21, 1838; that by section 1 of the
act they were authorized to hold real estate, but the amount held by the company should not exceed 1,000 acres at any time; that by the fourth section the company was empowered to purchase, fill up, occupy, possess, and enjoy all land covered with water fronting and adjoining the lands that might be owned by them, and to construct thereon wharves, piers, and slips, and all other structures requisite or proper for commercial and shipping purposes, provided that it should not be lawful for the company to fill up any such land covered with water, nor to construct any dock, pier, or wharf immediately in front of the lands of any other person or persons owning down to the water, without the consent of such persons first had in writing.

(8.) That by virtue of the powers and privileges of said act of incorporation the company purchased all the land and real estate described in the deed of conveyance from Edwin A. Stevens and others, bearing date May 6, 1839, and duly recorded in the clerk's office of the county of Bergen, in Liber 13 of Deeds, fol. 105, and in which, among other land, is included the tract of 564 acres embraced in the Loss map, and formerly the property of Col. Stevens.

(9.) That at the time of said transfer by Edwin A. Stevens and others to the said Hoboken Company the land for which these suits were brought by the city of Hoboken was under water, and since the date of said conveyance has been filled up, occupied, and possessed by said company or their grantees, and that all of said land under water was in front of and adjoining the real estate purchased by the

15 company; that since the time of said purchase the company, or their grantees, have at various times reclaimed the land from the water and have constructed thereon wharves, harbors, piers, and slips and other structures requisite or proper for commercial purposes, and have been in the exclusive possession, occupancy, and enjoyment of the same from the time of such reclamation.

(10.) That the city of Hoboken was incorporated by the Legislature of the State of New Jersey, by an act approved March 28, 1855, with the powers and privileges therein granted, prout the same, and that the territorial limits of the said city embraced all the lands shown on the Loss map, and also a large tract of real estate adjoining the same on the west, extending to the west line of lands of the late John G. Costar, deceased, and that previous to said incorporation its territory embraced (a portion of) one of the townships of the county of Hudson.

(11.) That the city of Hoboken never by ordinance recognized River street south of Third street, and only recognized its existence as far south as Third street by the ordinance of January 9, 1858; that Newark, First, and Second streets were never recognized by ordinance east of Hudson street prior to the ordinance of October 5, 1875, which ordinance provided that said streets should extend to high-water mark on the Hudson river; and that Third street was never recognized east of River street prior to the said ordinance of October 5, 1875, which ordinance also provided that the said street should extend to high-water mark of said river.

16 (12.) That no proceedings have been taken by the city to condemn the lands in controversy or to take them for the purposes of a public street, except the passage of the ordinance of 1875 and the bringing of these actions of ejectment claiming the dedication of the lands as a public street under the Loss map of 1804.

(13.) That the Hoboken Land and Improvement Company, in consideration of $68,583.33, executed a deed to the Camden & Amboy Railroad Company, dated December 1, 1864, conveying a tract of land at the foot or easterly end of Second street, within the boundaries of which are embraced the premises that the plaintiff seeks to recover in the two suits against the Pennsylvania Railroad Company, and that the Camden & Amboy Railroad Company and its grantees or lessees have been in the possession of said lands since said conveyance.

(14.) That the Legislature of the State of New Jersey, by a law approved March 31, 1869, authorized the united railroad companies of New Jersey to reclaim and erect wharves and other improvements in front of any lands then owned by them or held in trust for them on any tide-waters of the State, and when so reclaimed and improved to have, hold, possess, and enjoy the same as the owners thereof, subject only to the provisions that they should pay for such grant unto the treasury of the State the sum of $20,000 before the first day of July next ensuing, and should also file in the office of the secretary of the State a map and description of the lands under water in front of the upland designated in said act; that

the sum of $20,000 was paid by the companies within the
17 time limited and the map and description filed as required.
Exhibit D 9.

(15.) That an act of the Legislature of New Jersey, supplementary to the act to ascertain the rights of the State and of riparian owners in the lands lying under water, approved April 11, 1864, was passed on the thirty-first of March, 1869; that by a proviso to the third section of the same "all previous grants of lands under water or right to reclaim made directly by legislative act or grant or license power or authority so made or given to purchase, fill up, occupy, possess, and enjoy lands covered with water fronting or adjoining lands owned by the corporation, grantee, or licensee named in the legislative act mentioned, its, his, or their representatives, grantees, or assigns," are excepted from the operation of said supplement; that in the fourth section of said act the riparian commissioners are authorized, for the consideration therein mentioned, to execute and deliver in the name of the State of New Jersey, to all persons coming within the terms of said proviso, a paper capable of being acknowledged and recorded, conveying and confirming to them the title to all lands, whether then under water or not, which were held by previous legislative grant or lease, either in the hands of the grantees or lessees or by their representatives or assigns.

(16.) That under the provisions of said act the State of New Jersey
conveyed to the Hoboken Land & Improvement Company, by deed
dated December 21, 1869, for the consideration of $35,500, so
18 much of the land and premises purchased of Edwin A.
Stevens and others as was originally below the high-water mark of the river, and all lands under water in front of the same, and as was situate between Second and Fourth streets, if extended, and in front of Third street, if extended, to the exterior bulkhead and pier lines established by the riparian commissioners, and embracing the premises claimed in the several suits against the Hamburg-American Steam Packet Company and the North German Lloyd Steamship Company, and that the said company and its grantees have been in the possession of said premises since the date of said conveyance.

(17.) That on the twenty-sixth of September, 1866, the Hoboken Land & Improvement Company and Edwin A. Stevens executed a conveyance to the New York Floating Dry Dock Company for certain lots and tracts of land, above and under water, in front of and to the east of First street, and the northerly half of Newark street, if extended, embracing the premises claimed in the suits against Adolph E. Schmidt and others; that the said The New York Floating Dry Dock Company transferred the same to Frederick Kuhne, trustee of the German Transatlantic Steam Navigation Company, by deed dated August 31, 1872, the said Kuhne, on the same day, executing a formal declaration of trust to the said company; that on the ninth of November, 1872, the State of New Jersey, in consideration of $22,625, granted and conveyed to said Kuhne, trustee as aforesaid, all the right and title of said State in and to the land and premises described in the above-recited deed from the Hoboken

19 Land and Improvement Company to the New York Floating Dry Dock Company, and that the same has been in the possession of the said respective grantees from the date of the respective conveyances.

(18.) That on the twenty-third of April, 1872, the Hoboken Land & Improvement Company made a conveyance to the North German Lloyd Steamship Company of a lot of land situate in front of and to the east of Third street, if continued to the Hudson river, and embracing the premises claimed in the several suits against the North German Lloyd Steamship Company and the Hamburg-American Packet Company, and the premises have been in the possession of said company and its lessees since the date of said conveyance.

(19.) That River street, as shown on the Loss map, cannot be extended to reach the navigable waters of the Hudson river without crossing land outside of that shown on said map and without crossing land which, prior to April 28, 1874, belonged to the State of New Jersey, and which the said State, by deed of that date, leased in perpetuity to the Morris & Essex Railroad Company. See Exhibit D 8.

From these facts I find, as conclusions of law:

(1.) That neither Col. John Stevens, in 1804, nor at any time thereafter, nor his grantees of any portion of the land delineated on the Loss map, had power to dedicate to the public use as a highway any part of the land or water adjoining said lands and lying east of and below high-water mark of the river as it then existed, and that said land under water belonged to the State of New Jersey, 20 and could only be dedicated or subjected to an easement by the State and its grantees.

(2.) That the charter granted by the State of New Jersey to the Hoboken Land and Improvement Cmpany was a contract between the State and the corporators; that the fourth section expressly authorized the corporation to fill up all lands covered with water fronting and adjoining the lands they might acquire, and to construct thereon wharves, harbors, piers, and slips, and all other structures requisite or proper for commercial or shipping purposes, and that the only restriction imposed upon the corporation by the act was that it should not fill up or build any dock, pier, or wharf upon any land under water "immediately in front of the lands of any other person or persons owning down to the water;" and that neither the plaintiff in these suits nor the State of New Jersey nor the public was "another person owning down to the water," within the legal meaning and intent of said charter or contract.

(3.) That the provisions of the charter of incorporation of the plaintiff, so far as they are applicable to the subject of the pending controversy, negative the plaintiff's construction of its powers under said charter, in that (1) it withholds from the corporate authorities any right or privilege as shore or riparian owners; (2) while it vests the council with power to take any lands that it may judge necessary for the opening of Third street, it requires payment to be made to the owner for the fair value of the lands so taken and of the improvements thereon, and the damage done to any district lot

21 or parcel or tenement by taking any part of it for such purposes; and (3) it expressly provides that nothing contained in the charter shall be construed to interfere with or impair the vested rights and privileges of any person or corporation whatever, except as to property taken for public use, upon compensation as provided for in the act.

(4.) That the State of New Jersey, being the absolute owner of the land under water below high-water mark, which was the limit of the Stevens dedication of streets, had the right to fill in and make land as far as its ownership extended; that the soil thus acquired and redeemed from the water was in no sense alluvian or accretion, which became the property of the shore-owner, but remained the land of the State or its grantees, and that no right or authority existed in the shore-owner, by dedicating to the public streets to the limits of his ownership, to charge such newly-made land with the burden of an easement over it.

(5.) That as to the two several suits against the Pennsylvania Railroad Company the *locus in quo* is embraced within the descriptions of the deed from the Hoboken Land & Improvement Company to the Camden & Amboy Railroad Company, dated December 6, 1864, and also within the grant of the State to the united railroad companies of New Jersey of the date of March 31, 1869, wherein the said companies were authorized, for the consideration therein expressed and afterwards paid, "to reclaim and erect wharves and other improvements in front of any lands owned by or held in trust for them," subject to no restriction other than the regulations as to solid filling and pier lines before recommended by the riparian
22 commissioners, and that the defendant, who is the lessee of the said companies, is entitled to hold said premises against the claim of the plaintiff, unless compensation be first made for the taking thereof according to law

(6.) That as to the two several suits against Adolph E. Schmidt and others the *locus in quo* is covered by the description of the deed from the Hoboken Land and Improvement Company to the New York Floating Dry Dock Company, dated August 31, 1872, and also within the grant from the State by its commissioners, under the provisions of the fourth section of the supplement to the act entitled "An act to ascertain the rights of the State and of the riparian owners," etc., to Frederick Kuhne, trustee, etc., under whom the defendants hold by mesne conveyance, and that they are entitled to retain the possession and ownership of said premises against the plaintiff until the same is condemned and payment therefor made according to law.

(7.) That, as to the several suits against the Hamburg-American Steam Packet Company and the North German Lloyd Steamship Company, the *locus in quo* is within the grant from the State of New Jersey to the Hoboken Land & Improvement Company of the date of December 21, 1869, and also of the deed of conveyance from the Hoboken Land & Improvement Company to the North German Lloyd Steamship Company, dated April 23, 1872, and that the said defendants are entitled to hold the said premises clear and discharged of any right or claim therein or thereto by said plaintiff.

23 (8.) That none of the land and premises claimed by the plaintiff in either of the said several suits are subject to an easement in consequence of the dedication of public streets made by Col. John Stevens in the Loss map of 1804.

(9.) That the several defendants in the several suits should be adjudged not guilty.

24 Therefore, upon the said facts specially found as aforesaid, it is considered that the said plaintiffs take nothing by their said writ, but that they be in mercy, &c., and that the said defendants do go thereof without day, &c.

And it is further considered that the said defendants do recover against the said plaintiffs seventy-five dollars for their costs and charges by them laid out about defense in this behalf before the court thereof, now here adjudged to the defendants and with their assent, according to the form of the statute in such case made and provided, and that the said defendants have execution therefor.

Judgment signed this twenty-fourth day of May, eighteen hundred and eighty-three.

JNO. T. NIXON, *D. J.*

25 United States Circuit Court, District of New Jersey.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. River street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. Second street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
HAMBURG-AMERICAN STEAM PACKET CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
NORTH GERMAN LLOYD STEAMSHIP CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et al.*

Ejectment First street.

26 MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et al.*

Ejectment. Newark street.

Examination of witnesses had at my office, No. 93 Washington street, in the city of Hoboken, in the district of New Jersey, in the presence of Malcolm W. Niven, the attorney for the plaintiff, and Isaac W. Scudder, Esq., attorney for The Pennsylvania Railroad Company, one of the defendants, and Leon Abbett, attorney for all the other defendants, on the fourth day of August, eighteen hundred and eighty.

On the part of the plaintiff was produced as a witness ARTHUR SPIELMAN, who, being first duly sworn, deposes and saith:

I am a civil engineer and surveyor and do business in Hoboken; am a member of the firm of Spielman & Brush. I was employed by the plaintiff to make a map showing certain things in connection with the water front; did so in conjunction with Levi W. Post, a civil engineer and surveyor. Mr. Post represented the Hoboken Land and Improvement Company. (The map being shown to witness is identified by him as prepared by himself and Mr Post.)

(Map marked by me Exhibit P 1.)

The map shows the water front of the city of Hoboken and various shore lines; the shore lines are lines of solid filling, 27 extending from Ferry street to Sixth street, made at various times.

The dark-brown line shows the natural ground above tide water, according to Loss map, 1804, and the shore line made in 1804.

The green-shaded line is the shore line according to map made by Douglass for John Stevens, deceased, in 1839.

The yellow-shaded line shows the shore line according to map made by W. W. Shippen in 1855.

The blue-shaded line along the water shows the present high-water line and extent of solid filling.

The red full line is the exterior line for solid filling as established by the riparian commissioners.

The red broken line being the furthest east, as established by the riparian commissioners, shows the exterior line for piers. The lines as described are so marked on the map.

The ground made since 1804 is shown by yellow and is comprised between the Loss line of 1804 and the present line of 1804 and the present line of actual filling.

Hudson street is shown on this map as it was shown on the Loss map.

Newark street, First, Second, Third, Fourth, Fifth, and Sixth streets are shown on the map as they were on the Loss map, extending down to the Loss line.

There was at one time a map made by a man named Miller. The shore line on that map was nearly identical in location with Shippen line, varying at some points.

The Miller line is shown where it intersects Newark, Sec-
28 ond, Fourth, Fifth, and Sixth streets, and at these intersections
the line is marked "Miller, 1864," and is colored orange.

River street was also shown on Loss map, extending from Sixth to Fifth streets and from Fourth street to where it intersects the shore line on the Loss map.

At that time Ferry street did not exist and was not laid down on Loss map. The present location of Ferry street was outside of the shore line as shown on the Loss map.

Between Fourth and Fifth streets, Hudson street, and the shore line, a public square was laid out on the Loss map. It was called Hudson square on the Loss map.

We used Hudson street as a base line in all measurements in making this map, because it was the most easterly street on the Loss map, which ran the whole length of it.

The distance from Hudson street to the Loss line is marked on this map in figures on the north and south side of each of the streets running east and west. It also shows the distance from Hudson street to the present line of solid filling. It also shows the distance between the different shore lines in figures on the streets south of Fifth street.

It also shows the difference between the streets as actually laid out to-day and as originally planned on the Loss map.

Newark street has been widened east of Hudson street wider than on the Loss map. River street has been widened on the east side from Ferry to Sixth street; it is indicated by the original line being dotted and the present line being a full line. Newark street has
been widened twenty-five feet; it was originally fifty.

29 River street has been widened from sixty feet to seventy
feet.

No change has been made on the north side of Newark street; all of the south. The change was made on the east side of River street and none on the west.

None of the other streets on Loss map have been changed down to the line on Loss map.

Where the streets have been continued easterly and southerly of the line on Loss map the same width has been maintained, except Third street, which has been widened ten feet on each side east of River street.

Riparian grants, beginning at the north, are shown on said map as follows:

First. Grant of the State to Hoboken Land and Improvement Company December 21st, 1869, is shown by a red shaded line.

Second. Grant of State to Hoboken Land and Improvement Company May 11th, 1872, being a narrow strip.

Third. Grant of State to United New Jersey Railroad and Canal Company by act of Legislature March 31st, 1869.

Fourth. Grant of State to The German Transatlantic Steam Navigation Company November 9th, 1872. All these grants are shown by a red shaded line.

These grants extended across the east ends of Third street, Second street, First street, and partly across Newark street, as delineated on P 1.

Being cross-examined by Mr. SCUDDER:

Q. The street lines on Ross map extend only to the high-water line, colored brown on this map?

30 A. Yes, sir.

Q. Have you delineated the improvements on the reclaimed land on map, P 1, between the natural ground, colored brown, on the west and the high-water line on the east?

A. I have not.

Q. On Loss' map is there any scale of width marked for River street?

A. Yes, sir; it is marked sixty feet.

Q. On Loss' map is there any scale for Third street?

A. There is; marked fifty feet.

Q. East of River street, as shown by your map, P 1, what is the width of Third street shown on map, P 1?

A. It is seventy feet.

Q. Across the line of Third street, as delineated on map, P 1, east of River street, is there any improvement; if so, what?

A. There is a bonded warehouse, a Government bonded warehouse, built of brick.

Q. Immediately south of the southerly line of Second street and in continuation of River street southerly, as delineated on P 1, are there any improvements; and, if so, what?

A. There are none on P 1, but there are some in fact.

Q. Please state them.

A. There are the two-story brick buildings of the Delaware and Raritan canal.

Q. Continuing River street southerly from the southerly side of Second street, as delineated on P 1, would the line cut in two the building?

31 A. It would.

Q. Of what material is the building made?

A. Of brick.

Q. Continuing River street, as delineated on map, P 1, from the southerly line of Second street down to Ferry street, as thereon shown, what other improvements would such continuation intersect or strike?

A. Stevens' Battery and some shops of the Hoboken Land and Improvement Company, a dancing platform in "Otto Cottage" garden, a carousal, and some more shops of the Hoboken Land and Improvement Company.

Q. Can you say when the improvements were put in by the Delaware and Raritan Canal Company or the Camden and Amboy Railroad Company immediately south of Second street, as delineated on P 1?

A. About 18 years ago, I believe.

Q. When was the shed of the Stevens Battery spoken of erected?

A. About thirty years ago.

Q. When were the shops erected immediately south of the Stevens Battery on the line of River street continued southerly, as delineated on P 1?

A. I do not know.

Q. How long can you remember these shops being in existence on the line of River street south of Second street, as delineated on P 1?

A. About twenty-six years.

Q. Would this answer apply to all the shops down to Ferry street?

32 A. It does.

Q. You have spoken of a Miller map; do you know anything of the survey which gave rise to that map?

A. I do not.

Q. To what use is put the space included in the grant to the German Transatlantic Steam Navigation Company November 9th, 1872?

A. There is a bonded warehouse on it; and also it is used for piers and shipping purposes.

Q. Between the present high-water line on the east and the westerly boundary of the grant to the German Transatlantic Steam Navigation Company what improvements are there?

A. A bonded warehouse, the Eagel Hotel, and a portion of an old shop.

Q. Assume that the line of First street is extended easterly from the easterly line of River street, as delineated on P 1, to the present high-water line, what improvement would these lines intersect?

A. None.

Q. I see on P 1 you have marked lines which would appear to be old pier lines; are they so intended?

A. They are; they show the old pier lines according to Mr. Shippen's survey.

Q. The reclamations below tide water, shown on P 1 and covered yellow, were made by whom?

A. By the Hoboken Land and Improvement Company and their grantees.

33 Q. From what data did you get the shore line according to Loss' map?

A. From a tracing of the original map on file in Hackensack, which was found to agree exactly with a tracing made by Mr. Post.

Q. Can you tell us the whole amount of land reclaimed east of the shore line according to Loss' map, excluding the piers?

A. I cannot.

Q. The property included in the lines of the grant to the United New Jersey Railroad and Canal Company is how used?

A. For repair shops and office and pier.

Q. Is this used in connection with the navigation of the Delaware and Raritan canal and the business of that company?

A. It is.

Q. Can you state from recollection how long such use has existed?

A. I think about 14 or 15 years; it may be longer.

Q. Have you shown on P 1 the distance between the east side of River street, as delineated thereon, and the exterior line for solid filling?

A. No, sir; I can tell by the scale, and will give it approximately.

Q. Following the continuation of the northerly line of Second street from the easterly line of River street, as delineated on P 1, to the exterior line for solid filling, what is the distance?

A. About five hundred and twelve feet.

34 Q. Going northerly from the lines delineated on P 1 as the lines of the grant to the United N. J. R. R. and Canal Company, state the use of the land under water included in the grant to Hoboken Land and Improvement Company December 21st, 1869.

A. It is used for piers and docks by the Bremen and Hamburg Steamship Companies. They carry on commerce between the port of New York and Hamburg and Bremen. The port of New York extends over to the property occupied by these companies. The transportation of the Delaware and Raritan Canal Company is between Philadelphia and New York, and boats of the canal company are laid up on that property included in the grant to the United N. J. R. R. and Canal Company for repairs, and they have also been constructed right across what would be a continuation of Second street, as delineated on P 1, east of River street.

Q. Take the lines of First street, as delineated on P 1, east of River street, and state how the property is used.

A. It is used as a pier by the National Steamship Line, and commerce is carried on by that line between the port of New York and London and Liverpool.

Q. Can you state how long ago Third street east of the line of River street, as delineated on P 1, was widened from 50 to 70 feet?

A. About 16 or 17 years ago.

Q. Continue River street, as delineated on P 1, southerly and it intersects what?

A. It intersects the property of the Delaware, Lackawanna and
Western railroad. It is used for piers for shipping coal and
35 iron, &c., and the general purposes of the railroad company.

Q. These piers lie across the line of River street, as delineated on P 1?

A. They do.

Q. How many piers would River street, continued south, as delineated on P 1, intersect?

A. Six piers; two or three of these are in the limits of Hoboken city. Upon reflection, I think it would intersect three in Hoboken and four in Jersey City south of the Hoboken line.

Q. How much distance from north to south, at or about right angles to the line of Ferry street, is occupied by these piers?

A. About one thousand feet.

Q. About how much space from north to south is occupied by

these piers within the boundary line of Hoboken, opposite the line of River street, as delineated on P 1?

A. About six hundred and fifty feet.

Q. Can you tell how far south of the southerly line of Newark street, at the westerly line of River street, as delineated on P 1, the property of the Hoboken Land and Improvement Company extended by their original title?

A. I cannot accurately, but can approximately; I should say about eleven hundred and fifty feet.

Q. The red line, being the most southerly red line delineated on P 1, is intended to represent what?

A. The northerly boundary of the Delaware, Lackawanna and Western Railroad Company, the lessees of the Morris and Essex Railroad Company. The pier at the foot of Newark street, as
36 delineated on P 1, is at present occupied by the New Jersey Ice Company. The pier marked "pile pier, March, 1875," delineated on P 1, is used as a general shipping pier, at which transient steamers discharge and load again for foreign ports. It is also occupied by a cotton compress for pressing cotton for shipment. The pier, as delineated on P 1, marked "pile pier, June, 1869," is used for brick and sand and landing for excursion boats. Near the foot of Sixth street, as delineated on P 1, is a pier used for coaling tugs and steamboats.

Redirect by Mr. Niven:

Q. The street marked Newark street on P 1 is the same as the Philadelphia post road on the original Loss map?

A. Yes, sir; the names and numbers of the streets with this exception and that of Ferry street are the same on the two maps, Ferry street not being shown on the Loss map.

Further examination of the witness adjourned to a day to be hereafter fixed.

August 4th, 1880.

CHARLES MEYERS,
U. S. Commissioner.

September 23, 1880.

Examination continued in the presence of the same attorneys as above mentioned.

The plaintiff offers in evidence extracts made from deeds, which deeds are contained in the register's office of the county of Hudson, for the purpose of showing that certain property in Hoboken was conveyed by references to Loss' map. The said extracts show the names of the grantors, the grantees, the description of the property conveyed, with the book and page in the register's office.
37 Though informal as evidence, they are admitted subject to a test as to their accuracy by production of duly certified copies of the deeds referred to if at any time deemed desirable by either party.

Exhibit P 2.—John Stevens and wife to Peter Crighton. Recorded 3—172 in Bergen county clerk's office, in Liber U, page 297, showing conveyance of lots 75 and 76 on Loss' map. Deed dated April 10, 1805.

Exhibit P 3.—John Stevens to Edwin A. Stevens. Deed dated February 1, 1822. Recorded Liber 6 of Transcribed Deeds from Bergen County, page 258.

Exhibit P 4.—Edwin A. Stevens to John White. Deed dated June 12, 1832. Recorded in Bergen county clerk's office, in Book L 3, page 151. Conveys lot 59 on Loss' map.

Exhibit P 5.—Edwin A. Stevens and others to Hoboken Land and Improvement Company. Deed dated May 6, 1839. Recorded in Liber 13 of Transcribed Deeds, page 105.

Exhibit P 6.—Hoboken Land and Improvement Company to Henry Livessy and wife. Deed dated April 1, 1849. Recorded Book 22 of Deeds for Hudson County, page 463.

Exhibit P 7.—Hoboken Land and Improvement Company to Charles Idell. Deed dated October 25, 1851. Recorded Book 22 of Deeds for Hudson County, page 505.

Exhibit P 8.—Hoboken Land and Improvement Company to Peter Kerrigan. Deed dated October 24, 1866. Recorded Liber 141, page 140.

Exhibit P 9.—Hoboken Land and Improvement Company to Jurgen F. H. Meyer. Deed dated November 12, 1866. Recorded
38 Book 141, page 135.

Exhibit P 10.—Hoboken Land and Improvement Company to New York Floating Dry Dock Company. Deed dated September 1, 1866. Recorded Book 137, page 439.

Exhibit P 11.—New York Floating Dry Dock Company to Frederick Kuhne, trustee of German Transatlantic Steam Navigation Company of the City of Hamburg. Deed dated August 31, 1872. Recorded Liber 246, page 304.

Exhibit P 12.—The German Transatlantic Steam Navigation Company of the City of Hamburg to Adolph E. Schmidt and Leopold Goldschmidt. Deed dated January 23, 1878. Recorded Liber 320, page 156.

Exhibit P 13.—Hoboken Land and Improvement Company to the North German Lloyd Steamship Company. Deed dated April 23, 1872. Recorded Book 237, page 701.

Exhibit P 14.—Cornelius Harring, agent of forfeited estates, to John Stevens. Deed dated July 26, 1784. Recorded in Bergen Co. clerk's office, Book D of Deeds, page 437. Conveying the Hoboken tract.

Exhibit P 15.—A tracing of "a plan of the new city, Hoboken, county of Bergen, State of New Jersey. Hoboken, March, 1804. Made by Charles Loss, city surveyor." Endorsed: "The above plan is filed in the clerk's office of the county of Bergen the 8th day of April, 1805. Henry Van Dalsom, clerk."

Mr. SPEILMAN, being further examined by Mr. NIVEN:

Q. Please explain what Exhibit P 16 is; how it was made, and what it shows.

A. This tracing is an appendix to the large map, P 1,
39 showing the docks south of Ferry street to the canal, and the
manner in which they will be intersected by producing River street and Hudson street southerly to the canal. What I term the canal is simply a part of the river running up between the docks and wharves and forming a basin and used for dockage purposes. The original tracing was prepared by Mr. Post from surveys made by him and myself jointly. The shaded blue line on this tracing shows the extent of solid filling under the docks at the present time.

Q. If River street were continued far enough south it would extend to tide water, as shown on P 16?

A. It would.

Q. The tide ebbs and flows at the foot of all these streets?

A. It does.

Q. In your former testimony, taken August 4 last, you say "the dark brown line on P 1 shows the natural ground above tide water, according to the Loss map, 1804, and the shore line made in 1804." You mean that the dark brown line shows the natural ground above the shore line, as shown in Loss' map?

A. It does.

Q. The fine black line at the easterly edge of the brown color indicates what?

A. Indicates the shore line, according to the Loss map of 1804. I do not mean that it was a shore line made in 1804; it was the shore line as existing in 1804.

Q. Can you fix a date before which Ferry street did not exist.

40 A. It did not exist twenty-seven years ago.

Q. Mr. Scudder, on his cross-examination, referred to Government bonded warehouses at the foot of Third street; what did you mean by that—that the Government owned them?

A. I meant that they were used as Government bonded warehouses, and are still so used.

Cross-examined by Mr. SCUDDER:

Q. What is the length of the piers from the bulkhead on map, Exhibit P 16, from the bulkhead as actually in existence?

A. The most northerly pier is about six hundred and seventy-five feet easterly of the bulkhead; the next pier is about seven hundred and fifteen feet long, and the next one is about seven hundred and forty feet.

Q. West of the bulkhead line how much filling has been made between that bulkhead line and original high-water mark?

A. I can't speak accurately.

Q. By estimation?

A. I should estimate it about half a mile.

Q. You mean about half a mile from original high-water mark?

A. Yes, sir.

Q. The property delineated on P 16—is any part of it on Loss' map?

A. It is not.

Q. The piers and basins delineated on P 16 are used by what company?

A. The Delaware, Lackawanna and Western Railroad Company, as lessees of the Morris and Essex Railroad Company.

41 Q. The Morris and Essex railroad extends from Hoboken to where?

A. Phillipsburgh, on the Delaware river.

Q. And the Delaware, Lackawanna and Western extends from Phillipsburgh to Binghampton, in the State of New York?

A. Yes, sir.

Q. These piers and basins are used for what?

A. For the reception and transportation of freight.

Q. To what points transported?

A. To New York and the Eastern States, and as I believe to other places.

Q. South of the most southerly pier on Exhibit P 16 is there a bulkhead line and solid filling west which would admit of the construction of other piers?

A. There are several other piers there now besides those shown on Exhibit P 16.

Q. How far south of the present most southerly pier on P 16 is the land reclaimed so as to admit of the construction of other piers?

A. I suppose it is practically that way as far as the city line, and further.

Q. Extending River street southerly how many piers would it cross?

A. I could not say from memory, but I should judge as many as ten.

Q. These reclamations—were they or not necessary so as to get to water where piers could be erected, which water would be sufficiently deep for purposes of navigation?

42 Q. The depth of water was sufficiently deep in places westerly of this line, but this line of reclamation forms a boundary of uniformly deep water.

Q. Do you know whether there were any grants of land under water made to the Morris and Essex railroad by the State?

A. I do not, positively.

Q. Why do you say that Ferry street did not exist twenty-seven years ago?

A. Because I rowed across it in a boat twenty-seven years ago?

Q. The basin that you have spoken of—what is the distance that the water flows therein from the end of the pier to the bulkhead line?

A. About seven hundred and forty feet.

Q. What is the width of the water-way in that basin?

A. One hundred feet.

Q. What is the width of the water-way between the most northerly pier on Exhibit P 16 and the pier next south?

A. About one hundred and forty feet. The depth of the water between the most northerly pier and the pier next to it on P 16 is, in my judgment, at the bulkhead about ten feet.

Q. Between what piers are floats used whereon to transport cars with merchandise to the city of New York and elsewhere?

A. Between the most northerly pier and the one next to it.

Q. Have you any means of knowing what was the depth of water in the year 1804 immediately east of the dark line which bounds the color brown on map, Exhibit P 1?

A. I can't say.

Redirect by Mr. NIVEN:

43 Q. Can you tell who are in possession of the premises at the foot of Third street, of Second street, of First street, of Newark street, and of River street south of Second street?

A. The Bremen Steamship Company, foot of Third street, and also the Hamburg Company; at foot of Second street are the Pennsylvania Railroad Company, lessees of the Delaware and Raritan Canal Company; at foot of First street are the successors of the Eagle Line; the Pennsylvania Railroad Company on River street immediately south of Second street, and the Hoboken Land and Improvement Company immediately south of the Pennsylvania Railroad Company to the northerly boundary of the Morris and Essex railroad, and the Morris and Essex from there to the boundary of the city; at the foot of the street is the Hoboken Land and Improvement Company.

Recross by Mr. SCUDDER:

Q. On Exhibit P 1 there are yellow lines representing piers and a bulkhead line; have these piers been obliterated in fact by filling where the delineation shows them to be in the light brown color?

A. They have.

Q. Such parts of the pier or bulkhead line colored yellow as are now on this map shown to be easterly of the present high-water line—do they exist in fact and have they been removed?

A. They do not exist in fact, and have been removed.

ARTHUR SPEILMAN.

44 The plaintiff rests, reserving the right to offer the book and page of recording, P 13, and to offer a declaration of trust from Frederick Kuhne to the German Transatlantic Steam Navigation Company, and such other proof as he may deem necessary on examination of the proofs already in; otherwise to give notice in writing of case being closed.

September 23, 1880.

CHARLES MEYERS,
U. S. Commissioner.

Plaintiff offered in evidence the following laws and ordinances affecting the city of Hoboken:

"An act to incorporate the city of Hoboken," approved March 28th, 1855 (Laws 1855, p. 448).

SEC. 2. "All that part of the city lying south of the middle line of Third street shall constitute the first ward of said city, and all that part lying north of the middle line of Third street," &c.

SEC. 5. "For the second ward, in Washington street, near Fourth," &c.

SEC. 40, sub. sixth, tit. IV, of the powers of the council. "To the easterly line of Hudson street—to the northerly line of Seventh street." (This part repealed by act March 23, 1859, sec. 10.)

SEC. 40, sub. seventh. "To regulate and order the building of a dock at the foot of Third street, in said city, at the expense of said city," &c., &c. (See this sub., Exh. A, hereto annexed.)

SEC. 53. And be it enacted, That the council shall have power
to take any lands that they may judge necessary for the
45 opening of Third street, upon paying to the owner the fair
value of the lands taken and of the improvements thereon
and the damage done to any distinct lot or parcel or tenement by
taking part of it for such purpose: Provided, That the owners of
property benefited thereby shall pay a just and equitable propor-
tion of the expenses and costs of opening said street.

"An act to authorize the mayor and council of the city of Hoboken to sell or exchange the lands known as the burying ground, in the city of Hoboken," approved March 20, 1857 (Laws 1857, p. 498). The preamble recites a deed from the company to city of ground, Oct. 1, 1855. Act also names Hudson, River, Sixth, and Seventh streets.

"An act to authorize certain streets marked out on a plan of the city of Hoboken to be changed," approved March 6, 1858 (Laws 1858, p. 233). Names Hudson, Seventh, Second, Sixth, and Eighth streets.

"An act to create a new township in the county of Hudson, to be called the township of Weehawken," approved March 15, 1859 (Laws 1859, p. 368). Names Eighth, Hudson, Seventh, River, and Sixth streets.

"An act authorizing the mayor and council of the city of Hoboken to raise money by temporary loan for the purpose of distributing relief to the families of volunteers engaged in the war service of the United States," approved March 19, 1862 (Laws 1862, p. 239).
Names First, Washington, Newark, and Bloomfield streets.

46 "An act to vacate a portion of an alley called Court street,
in the city of Hoboken," passed March 21, 1865 (Laws 1865,
p. 411). Names Court street, Seventh and Eighth streets on Loss'
map.

Supplement to city charter, March 21, 1865 (Laws 1865, p. 412). Sec. 15 names Garden, Fourth and Fifth streets.

Supplement to city charter, March 21, 1866 (Laws 1866, p 570). Names Third, Adams street to Hudson street.

Supplement to city charter, April 6, 1866 (Laws 1866, p. 1045). Names Eighth, Hudson, Seventh, River, Sixth, Ferry streets, Willow, Newark, Paterson plank road.

Supplement to city charter, approved April 4, 1867 (Laws 1867, p. 689). Sec. 1, sub. eighth, names Bloomfield street.

Supplement to city charter, approved April 7, 1868 (Laws 1868, p. 838). Names Fifth, Fourth, Garden, and Willow streets.

"An act to create a fourth ward in the city of Hoboken," approved March 16, 1869 (Laws 1869, p. 411). Names Willow street.

Supplement to city charter, approved February 23, 1870 (Laws 1870, p. 277). Names Willow street, Newark avenue, Hackensack plank road.

Supplement to city charter, approved April 6, 1871 (Laws 1871, p. 1421). Secs. 16 and 19 name Second, Thirteenth, and Ferry streets, Eighth, Willow.

"An act to provide for the construction of a main sewer in
47 the city of Hoboken and township of Weehawken" (Laws of
1873, p. 799). Mentions Jefferson, Second, Fifteenth, and
Sixteenth streets.

Supplement to charter (Laws of 1873, p. 358). Mentions Garden, Willow, Hudson, River, Fourth, and Fifth streets; improvement of Hudson and Church square.

Supplement to charter (Laws of 1873, p. 749). Mentions Meadow and Fifteenth streets.

Supplement to charter (Laws of 1874, p. 402). Reannexing Weehawken. Mentions Bloomfield street.

Supplement to charter (Laws of 1874, p. 524). Boundaries of Hudson square defined, Hudson street, Fourth street, Fifth street, and Hudson river.

Supplement to charter (Laws 1874, p. 524). Improvement of squares. Mentions Hudson, Garden, Willow, Fourth, and Fifth streets.

Supplement to act providing for main sewer in Hoboken and Weehawken (Laws of 1874, p. 559). Mentions Jefferson, Second, Eighth, Clinton, Willow, Garden, Meadow, Thirteenth, First, Ferry.

Ordinances.

An ordinance relating to streets, approved January 9th, 1858.
Names on Loss' map adopted, except Phila. Post road to be called
Newark street, and Court street Ferry street; River street to extend
and run from Third to Fourth, and from Fifth to stone wall
east; Hudson street to extend and run from Ferry to Seventh;
Washington street to extend and run from Ferry to
48 Seventh; Bloomfield street to extend and run from Newark
to Seventh; Garden street to extend and run from Newark
to Seventh; Meadow street to extend and run from Newark
to Fourth, and from Fifth to Seventh; Newark street to extend and run from Hudson to line ditch; First street to extend
and run from Hudson to line ditch; Second street to extend and
run from Hudson to line ditch; Third street to extend and run
from River to line ditch; Fourth street to extend and run from
River to line ditch; Fifth street to extend and run from River to
line ditch; Sixth street to extend and run from River to line ditch;
Ferry street to extend and run as now established (Jan., 1858);
Court street to extend and run from Newark to Seventh.

An ordinance to authorize, license, and permit the Hoboken and Weehawken Horse Railroad Co. to lay tracks and run cars thereon in the city of Hoboken, approved January 4, 1860. Names Ferry, Washington, Newark, Second, Fourth, Sixth, Eighth.

An ordinance to amend an ordinance entitled An ordinance relating to streets, approved January 9, 1858, passed October 5, 1875, approved October 5, 1875, provides that sec. 7, entitled An ordinance relating to streets, January 9, 1858, be, and the same is hereby, repealed.

2nd. That Newark, First, Second, Third, Fourth, and Fifth streets shall each run and extend from westerly line to city to high-water mark on Hudson river; that Sixth street shall run and extend from River street to westerly boundary of city; that Seventh street shall run and extend from Hudson street to westerly boundary of city.

49 3rd. That each of said streets mentioned in said preceding section shall not be less at any point than fifty feet wide, and that no court-yard on either or any of said streets shall extend into same beyond a distance of six feet and six inches.

4th. All ordinances and parts of ordinances inconsistent with the provisions of this ordinance be, and the same are hereby, repealed.

United States Circuit Court, District of New Jersey.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. River street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. Second street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
HAMBURG-AMERICAN STEAM PACKET CO.

Ejectment. Third street.

50 MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
NORTH GERMAN LLOYD STEAMSHIP CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et al.*

Ejectment. First street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et al.*

Ejectment. Newark street.

It is hereby stipulated and agreed between the parties and their respective attorneys that the examination of William W. Shippen, signed by him and sworn to before Frank G. Haughwout, notary public, New York city, be read and used in the above-entitled suits with the same force and effect as if the same had been duly taken before a United States commissioner in New Jersey, and that for all purposes the same shall be considered as testimony in each of the above causes.

LEON ABBETT,
Attorney for All Defendants Except Those Represented by Hon. I. W. Scudder.

51 I. W. SCUDDER,
Attorney for Penna. R. R. Co.

MALCOLM W. NIVEN,
Attorney for Plaintiff.

Examination of witnesses for the defendant had in the presence of Malcolm W. Niven, Esq., attorney for the plaintiff; Isaac W. Scudder, Esq., attorney for the Pennsylvania Railroad Company, one of the defendants, and Leon Abbett, Esq., attorney for the other defendants, on the fourth day of March, 1881.

On the part of the defendants was produced as a witness WILLIAM W. SHIPPEN, who being duly sworn, deposes and says:

I am president of the Hoboken Land and Improvement Company. I am also one of the executors under the will of Edwin A. Stevens, deceased. I first went to Hoboken on the first of January, 1847. I came there as general agent of the company. I was not familiar with Hoboken before that time, but from that time to the present I have been familiar with the property of the company and the property of Mr. Stevens, and have had charge of it.

(Witness looks at copy of Loss' map in evidence as Exhibit P 15 and says:)

I am familiar with the premises shown on that map; there have been changes in the outlines of the property from 1805 up to the time that I saw it.

52 Q. In the deed to John Stevens, in evidence as Exhibit P 14, the southerly boundary of the tract conveyed to him is described as follows: Thence southeasterly down the hill to the edge of the meadow, where the creek runs near the upland—that creek that parts Hoboken and Harsimus; thence easterly along said creek as it runs to Hudson and North river. Does the loss map show this southerly boundary?

A. No.

Q. Can you tell what the line represents in the southerly boundary of the tract as shown on the Loss map?

A. It is intended to represent, evidently, the shore of the cove from Hudson river up to the westerly line of Washington street, but beyond that point westerly I do not think either the northerly or the southerly line in continuation represents the shore front of the cove westerly. The shore front was farther west and the cove ran farther back than is shown on this map. I understand that the single dotted — on Loss' map were intended to represent the boundary between meadow land and upland; where there are double dotted lines they *are* probably represent old arm roads.

Q. What was the name of this creek that was referred to in the deed to John Stevens?

A. It was called Hoboken creek; the creek can be traced still, although it is very much cut off by streets, etc.; but a large portion of it can be traced; it ran in crooked lines from near where the Paterson plank road strikes the meadows (about the continuation of First street) to the tide bank, near the line of the 53 extension of Meadow and Newark streets; the course of it was entirely outside of the land shown on Loss' map.

Q. There is a pier shown on the southerly extremity of the property on the Loss map. Was that pier in existence at the time you went to Hoboken in 1847?

A. No, sir.

Q. Has it been there at any time since?

A. No.

Q. Is there any evidence of any pier ever having been there?

A. There is no visible evidence of any pier having been there; this property was filled in at this point partly before I came there and partly after I came there.

Q. State what is the present condition of the land where that pier is shown on Loss' map.

A. It is filled in solidly and is occupied partly by Ferry street and partly by the Morris and Essex R. R. depot, except possibly a few feet of the most extreme end may be now water under the pile-work.

Q. What is the Philadelphia post road now called, which is shown as the most southerly highway on the Loss map?

A. Newark street; the Loss map does not show Ferry street or any other highway where that is now laid out on the maps.

Q. What was the condition of the river end of the Philadelphia post road or Newark street in 1847?

A. It was opened or partly opened down to the then bulkheads of the river and from there to the west; I don't think it was 54 opened fifty feet wide; the north side of it was marked by a fence which enclosed a pleasure ground connected with the Otto cottage, and on the south of it was the ferry yard, the fence of which, I think, stood in about the southerly line of Newark street.

Q. Where was the bulkhead on the river of which you speak?

A. It was about where the shore line is shown on Exhibit P 1 as of the year 1839 or 1855. I think these two lines were intended to be identical from the southerly extremity up to the line of Third street, but from differences in surveys of different surveyors or from some other cause they appear to be some feet apart on the map marked Exhibit P 1. That part of Hoboken which lies between the northerly boundary line of Jersey City and the southerly line of the land conveyed to John Stevens in 1784 was acquired by the Hoboken Land and Improvement Company or its grantors from Anthony Dey, Mr. Newkirk—I think Garrett Newkirk—and there may have been another outside party. No portion of this track is described in the deed of 1784 to John Stevens. I think that these purchases were all made subsequent to the making of the Loss map.

Q. Will you please describe the condition of the property in Hoboken in 1847 between the southerly line of the property shown on the Loss map and the north line of Jersey City as that line now exists?

A. South of the line of the Loss map it was filled in from about the easterly line of Washington street down to the ferry and southerly about 200 feet south of the southerly line of Ferry street.

Q. Where were the ferry buildings situated in 1847?

55 A. I think they were about in what would be the line of
Ferry street where it would be cut by the extension of the easterly line of River street. The slips are shown on Exhibit P 1, in the extension of the line of Ferry street, colored yellow. The pink line at the southerly extremity of Exhibit P 1, being the line crossing the extension of Ferry street, is the boundary line of the property of the Morris and Essex R. R. Co. and the Hoboken Land and Improvement Co. The easterly line shown on the Loss map I have always understood to be the line of high water of the Hudson river, and from my own knowledge of it above Third street I know it was high water.

Q. State what changes have been made since 1847 up to the present time in the southerly extension beyond the southerly line of Loss' map.

A. The land has been filled in where it was not filled in in 1847 and extended out into the river; filled in south, east, and west; and the ferry houses have been carried out and placed farther north and farther east, as shown on Exhibit P 1. The land is now filled out solidly to the lines of 1879, as shown on Exhibit P 1. Where there are no structures appearing beyond that line they are merely piers on piles and not solid filling. Ferry street has been built up on the northerly side since then—one lot west of Hudson street and one lot east of Hudson street—and south of the pink line on Exhibit P 1 are now the depots, tracks, and buildings of the Morris and Essex R. R. Co.
In 1847 south of Ferry street there used to exist the Atlantic
56 Hotel and the Hudson County Hotel, which have been re-
moved and the railroad buildings, tracks, and depots put in their places—built on the site thereof. There was a map made in 1852 which showed the condition of the shore front and buildings at that time.

This map is offered in evidence and admitted as Exhibit D 1, with leave to defendants to substitute a copy thereof in place of the original.

The witness continues: I think that the bulkhead line on the Hudson river, as shown on the map of 1852 (Exhibit D 1), is the same as the shore line of 1839 and 1855, shown on Exhibit P 1. The map of 1852 does not show River street at all.

Q. What was the condition of the land at the foot of Newark street in 1847?

A. It was shown on the map of 1852 (Exhibit D 1), except that the long pier near the foot of First street was built during the summer of 1847. The company had a private wharf south of the line of First street and north of the line of Newark street, and over this wharf and through Newark street they went from and to the pier last mentioned. The company charged wharfage for vessels lying alongside of its wharf, which was in front of the block which is marked on the map of 1852 (Exhibit D 1) "Otto Cottage, H. Otto."

Q. What changes have been made since then?

A. Newark street has been extended out since 1847 about 250 feet by solid filling, and buildings have been erected on the north line of Newark street 100 feet east of the extension of River street.
About 75 feet south of the southerly line of Newark street,
57 in the line of the extension of River street, there is a brick
wall, which is the wall of the ferry shop yard belonging to the company. River street has never been in use as a street south of Second street. At the foot of Newark street now there is a pile pier used by the Hoboken Land and Improvement Co. on the south side and by the German Transatlantic Steam Navigation Co. This pile pier would cross the extension of Newark street, as it is shown, 50 feet wide on the Loss map.

MARCH 7, 1881—9 a. m.

Met pursuant to adjournment.
Present: Counsel as before.

Direct examination of WILLIAM W. SHIPPEN continued:

Q. How long has the extension of Newark street down to the bulkhead line existed?

A. Ever since I knew it. The bulkhead line has gradually been filled out farther and farther, from time to time, into the river. The pier which is shown on the Loss map at the southerly end thereof never existed within my memory. This is the only pier that was shown on the Loss map.

Q. What was the condition of the river end of First street when you first knew it?

A. There was a fence across First street at the easterly side of Hudson street when I first knew it, in 1847, and the rest of the street east of Hudson or a portion of it was used as a yard for the Otto Cottage and a portion for the battery yard. None of the street east of Hudson was open or used as a street at that time. In the part
of First street enclosed in the battery yard there was a watch-
58 man's house, and there was a gate which opened into a pas-
sage-way that went to Newark street along the water.

Q. Has that fence ever been taken away?

A. The fence on the east side of Hudson street was taken away some time after the sale of the water front to the New York Floating Dry Dock Co., but I cannot give the exact date; that was about 1866, which, I think, was about the date of the sale to the dry dock Co., and it has remained down ever since.

Q. At that time what part was sold to the dry dock Co.?

A. All the water front from the centre of Newark street, as shown on Loss' map, to a point 200 feet south of the southerly line of Second street continuously along, conveying that part which would be the extension of First street, the half of Newark street, and the extension of First street.

Q. Where did it begin?

A. The conveyance began on the line of the extension of River street and went east out into the river as far as the rights of the parties extended.

Q. What other changes have there been in First street?

A. The extension of the line of First street has been filled out further into the river by the dry dock Co., but First street east of Hudson has not been improved or anything done with it except the removal of the fences.

Q. What was the condition of the river end of Second street at the time you first knew it?

A. There was a fence across the line of Second street west of the westerly line of River street. The fence is shown on
59 the map of 1852 (Exhibit D 1), and this fence remained
there until the company sold the land to the Camden and Amboy Railroad Co., which, I should think, was about 1862 or 1863. Then that company changed the fence to the south line of Second street and the east line of what would be the extension of River street. The conveyance to the Camden and Amboy R. R. Co. embraces what would be the extension of River street south of the southerly line of Second street and what would be the extension of Second street east of the easterly line of River street.

Deed from the Hoboken Land and Improvement Co. to the Camden and Amboy Railroad Co. offered in evidence, with the understanding that a copy of the same may be substituted for the original, marked Exhibit D 2.

Q. Was there any other change in Second street?

A. I think not, except that it has been paved down to the curb line of River street.

By Mr. NIVEN:

Q. And the company has disposed of property on the line of the street down to the corner; it is a public street?

A. Yes; at the point where the extension of River street would cross the southerly line of Second street are situated brick buildings, shops, and offices of the Camden and Amboy R. R. Co., which have been there, I think, since 1862 or 1863.

By Mr. Abbett:

Q. How far south do those buildings go in what would be the extension of River street?

A. Some of them, I think, go 100 feet south of Second street.
60 I suppose the buildings in the extension of River street at those points south of Second street are worth from $12,000 to $15,000. The buildings are now used by the Pennsylvania R. R. Co., and contain very valuable machinery and tools, which are in constant use. What would be the extension of River street south of the southerly line of Second street and what would be the extension of Second street east of the easterly line of the extension of River street have never been open to the public, but have always been fenced off and the public prevented from using the same.

By Mr. Niven:

Q. Second street, from the easterly line of Hudson street down to the easterly line of the extension of River street, is an open public street, and opened, paved, and improved by the Hoboken Land and Improvement Co., and the property sold on the line of the street by reference to the street as it exists, and so opened by the Hoboken Land and Improvement Co.?

A. Yes; the extension of Second street easterly is in the line of those shown on Loss' map.

By Mr. Abbett:

Q. What was the condition of Third street in 1847?

A. Third street in 1847 had a fence across it, probably near the middle of what would have been the extension of River street as shown on Loss' map; that fence was a continuation of the original fence which crossed Second street in 1847 and which had been there several years; it was an old fence when I first knew it; I
61 think it had been there twenty years before I saw it, which would run it back to 1827. It was upland east and west of this fence. The old ship-yard was at this point; that ship-yard is shown on the map of 1852 (Exhibit D 1), and is marked "ship-yard." The building shown on that map which crosses the extension of Third street was an old blacksmith shop and mould loft.

By Mr. Niven:

Q. The map of 1852 does not show River street at all, does it?

A. No.

By Mr. Abbett:

Q. What changes were made in Third street after 1847?

A. The property 100 feet east of the line of River street was leased and subsequently sold to the North German Lloyd Steamship Co., and across Third street east of this line was built a large brick United States bonded warehouse, which is there now and used for that purpose. The conveyance embraced Third street and property north and south of it. The map, Exhibit P 1, shows only so much of the grant of the State to the Hoboken Land and Improvement Co. made December 21, 1869, as is now occupied by the North German Lloyd Steamship Co. and the Hamburg-American Steamship Co., the deed having been to the North German Lloyd Steamship Co. for the whole plot. The grant of the State of 1869 embraces all the land originally below the line of high-water mark as shown on the Loss map, and all lands under water in front of the upland as shown on that map out into the Hudson river, as will be seen by reference to said grant, which is in evidence as Exhibit D 3.

62 The company now owns on the north side of Third street 100 feet east of River street as the lines now are and their grantees own on the south side. The street is now open down to the line of the property sold to the North German Lloyd Steamship Co., and improved by the Hoboken Land and Improvement Co. at its own expense, and not by the city. This improvement was made by the company before it sold the land on either side of River street. This company widened Third street ten feet east of the easterly line of River street; this widening was done with reference to the contemplated business to be done by the steamship company or other parties that might come there for commercial purposes.

Q. What was the condition of Fifth street in 1847?

A. There was a fence running from about the line of Fourth street north across Fifth and Sixth streets, as far as I can remember, not far from the present line of River street as shown on Loss' map. From Fourth and Hudson streets northerly and eastwardly there was a high bluff running off some distance and then sloping down to the river, and on the top of that bluff and the top of the slope there was a fence along the southerly line of Hudson square; crossing the square the fence ran north to somewhere about in the line of River street up to the line of Sixth street; it then continued north up to the Elysian Fields; it was the fence that separated the walks leading to the Elysian Fields from what was known as the orchard pasture. The orchard pasture was bounded generally by Fourth street, Washington street, and the fence or the walks

63 leading to the Elysian Fields, and northerly by the fence of the Castle Point property, which was probably in the line of Seventh street.

Q. When was that fence changed?

A. Between 1847 and 1853 a portion of the high land had been taken down, so that the southerly fence of the pasture lot was moved to about the north side of Fifth street, but the fence which separated the walks leading to the Elysian Fields from the open lots west of it still remained down to about the line of Fourth street, crossing Fifth and Sixth streets. The walks that I refer to were not only the river walk leading to the Elysian Fields, as it now exists, but other walks, which have since been obliterated, and which ran along the top of the slope leading from the high land to the river. That fence remained there, crossing Fifth and Sixth streets, until the River terrace houses were commenced, which I think was about 1856; it was then removed. There is a fence across the end of Sixth street at present. There is none across the foot of Fifth street; it is open to the river now. Fifth street now runs down to the piers, and there is nothing in the line of that street, except the dock-master's office, on a part of the northerly end of it; one-half of the street is improved; the other half is taken up by the slope down to the levels of the public square. There are two fences at Sixth street now east of River street, one about 190 feet east of River street, and the other about 125 feet east of that one. The property between the 64 two fences is occupied by Henry Morton as a yard for his dwelling. It was formerly occupied by Robert Weir, and was occupied by him at the time of the commencement of these suits. The property in extension of Sixth street is now occupied by Charles Schultze as a lumber yard.

Q. What was the condition of River street north of Third street in 1847?

A. There was no visible street there; there was nothing on the ground to show any portion of the street; there was nothing south of that point; nowhere in the line of River street was there any visible street at that time, either north or south of it. The map of 1852 (Exhibit D 1) shows the actual condition of the land at that time without any River street whatever. And in front of the ship-yards, between second street and a point 100 or 200 feet north of Third street, trees were planted along the easterly line of the ship-yard fence, as shown on the map of 1852, and another parallel line of trees some thirty-five or forty feet west of them, as if the purpose had been, eventually, to put in a street diagonally; some of those trees are there still, but the most of them have been removed to open River street as it now is down to Second street, and to build the houses on the west side of River street. The first improvement made, which in any way affected River street as shown on Loss' map, was the grading of River street between Third and Fourth streets, and the grading of Third and Fourth streets to River street from Hudson street, for the purpose of erecting buildings on the westerly line of River street between Third and Fourth streets, 65 what is now called River Terrace, and in erecting buildings on the block bounded by Third and Fourth, Hudson and River streets. After these improvements were made you could go down Fourth street to River street and down River to Third street. About in the line of Third street was the main gate leading into the ship-yard which was used by the company. There was no fence east of the ship-yard fence, and the river front of the ship-yard was ushed for launching vessels and other ship-yard purposes. There were several very large clipper ships built there, besides several steamboats.

The next improvement on River street was between the lines of Fifth and Sixth streets, north of Hudson square. It was leveled down and used as a carriage drive to Castle Point, Mr. Stevens' place, but open to the public, and also to the house called the Shanty; that improvement was made in the nature of opening it as a country road, but it was not in the exact line of the street; it was not straight, but it was used by the public. River street was afterwards between Fifth and Sixth streets graded and improved, and is now in use as a street between these points.

The next improvement was between Third and Second streets. The space now covered by River street between these two points had been filled up prior to 1847, but no street had been laid out over it. About 1858 River street, between Second and Third streets, was partially laid out and opened by the company from Third street some distance down, and the balance of it opened and finished down to Second street by curbing, paving, &c., about ten or eleven years ago. The company has widened River street on the east.
66 North of Second street the company has widened River street ten feet beyond the width of it, as shown on Loss' map, or the extensions of the lines as shown on that map, making the street actually 70 feet wide instead of 60 feet, as shown on Loss' map. North of Second street, Exhibit P 1 shows the lines of River street correctly as they now exist. No River street now exists south of Second street. The map, Exhibit P 1, south of Second street, does not correctly state the fact when it says, "Present east house line of River street as laid out by the Hoboken Land and Improvement Co." The Hoboken Land and Improvement Co. never laid out any such line south of Second street, and the map is incorrect with reference to that.

Q. Look at Exhibit D 4 and state whether that map correctly shows the condition of the property delineated thereon October 29th, 1878, and also the improvements then existing thereon, and also the claim of the city.

A. Taking it for granted that the claim of the city is as delineated on said map, my answer is that it does. There is a part of the extension of Newark street marked, "This property is owned by Adolph Emil Schmidt and Paul Leopold Goldschmidt and is now used as a street." The company has never dedicated this as a street, and it is a part of their conveyance to the New York Floating Dry Dock Co., who, and their successors, claim to own it as their private property. This land so marked as the extension of Newark street is a portion of the grant of the State to the German Transatlantic Steam
67 Navigation Co. November 9, 1872, and is shown on Exhibit P 1 as the northerly part of the premises marked, "Pile pier, June, 1869." I know of no other grant of any part of the extension of Newark street by the State.

The grant of the State to the German Transatlantic Steam Navigation Co. offered in evidence and admitted, with the understanding that a copy may be hereafter substituted for the original; it is marked Exhibit D 5.

(The witness continues:) The extension of Second street is covered by a grant by the State to the United New Jersey Railroad and Canal Companies by act of the Legislature, March 31, 1869, as shown on Exhibit P 1.

This grant is offered in evidence and admitted, with the understanding that a copy may be used; it is marked Exhibit D 6.

The extension of Third street is covered by a grant made by the State to the Hoboken Land and Improvement Co. December 21, 1869, as shown on Exhibit P 1, and in addition to what is shown on that map all the land easterly beyond the line of high-water mark, as shown on the Loss' map, as will appear by reference to said grant.

This grant is offered in evidence and admitted; it is marked Exhibit D 7.

There is no other grant by the State of any of the land under water or any of the property shown on Exhibit P 1 that I am aware of, except it be the grant or lease to the Morris and Essex R. R. Co., south of the southerly pink line shown on Exhibit P 1. Ex-
68 hibit P 16, which is a supplement to Exhibit P 1, shows the grant or lease to the Morris and Essex R. R. Co.

The lease is offered in evidence and admitted; it is marked Exhibit D 8.

Q. What was the condition of the fences on the river side of the Hoboken tract in 1847?

A. There was a fence in 1847 on the easterly line around what is marked "Hoboken ferry yard" on Exhibit D 1 (map of 1852), between Ferry and Newark streets, which fence continued on the southerly line of Newark street down to the then bulkhead. The next fence north of that was a fence enclosing the plot marked on the map of 1852 as the Otto cottage, and extending across the line of First street in the east line of Hudson street, and continuing along that east line of Hudson street to Second street; thence easterly to the fence shown on the map of 1852 as the westerly boundary of ship-yards, and continuing thence along the ship-yards to a stone wall which ran out into the river, striking the land about 100 feet north of the northerly line of Third street; thence out along the stone wall to the river, enclosing the ship-yards. The next fence north of that is the fence separating the walks leading to the Elysian Fields from the orchard pasture lot, as heretofore described in my testimony. There were fences between the Atlantic Hotel and the Hudson County Hotel south of Ferry street, and there were fences enclosing the yards of these hotels south of that street, substantially as shown on the map of 1852, Exhibit D 1. The ferry buildings at the foot of Ferry street in 1847 were nearly in the same loca-
69 tion that they are shown on the map of 1852. Some of the buildings on that map of 1852 were not then erected in 1847, and the building which existed in the northerly line of Ferry street in 1847 is not shown on the map of 1852.

Cross-examination by Mr. NIVEN:

(The witness is shown map of 1852, marked Exhibit D 1.)

Q. What is that map?

A. It is a map that was published by order of the Hoboken Land and Improvement Company to show the lots for sale in 1862.

Q. Do you know who made it?

A. I do not.

Q. Does it show the lots that they had for sale at that time?

A. Yes.

Q. Did they offer lots for sale by it at that time?

A. No—that is, it never was mentioned in deed and descriptions.

Q. I mean was it used in selling lots in order to show their location?

A. Yes.

Q. And the condition of the streets?

A. Yes; but the deeds were principally given by Loss' map; our printed deeds refer to Loss' map.

Q. Are the streets as laid down on that map the same as the streets on the Loss map as far as the streets on the Loss map extend, having reference to the changed condition of the same?

70 A. Yes; they are of the same width and the same streets, except Ferry street and the extensions beyond the water lines shown on Loss' map.

Q. Does this map show correctly Newark street as it existed at that time?

A. I think it does.

Q. Leading down to the bulkhead?

A. Yes.

Q. As an open street?

A. Yes.

Q. Does it show First street as it was mapped at that time or as it existed?

A. This map does not correctly show First street; it was actually mapped on this map as running down to the bulkhead, but in fact it was fenced across at the line of Hudson street and elsewhere and used as private property. There were a number of those maps printed and given to parties proposing to buy lots and parties purchasing lots to show the location and condition of things.

Q. Please describe in detail the various structures on the line of River street?

A. (Witness refers to Exhibit D 4.) Beginning on the south of the machine shop and blacksmith shop, between Ferry and Newark streets, is a two-story brick building filled with valuable machinery and tools. The other buildings on that block are all of a somewhat temporary nature. Between Newark and First streets there
71 is nothing of a permanent character. The property marked
"Occupied by John Daven" is a yard, and so is the property occupied by Henry D. Gerts, except a portion covered by a dancing platform, a carousal, and a music stand, which are only temporary structures. Between First and Second streets, going north from First street, the buildings consist of an old brick machine shop, not in use now, and a frame one story machine shop, used in the building of the battery, and north of that is the Stevens battery, extending clear across the street. That is now being removed by the purchaser of the battery. Then there are the shops of the Camden and Amboy R. R. Co., or of the Pennsylvania R. R. Co., which have

already been described. There is no building or other structure in the line of River street north of that up to the Castle Point walls.

Q. Is there any structure in the way of the opening of Newark street?

A. No, sir.

Q. Is there any structure in the way of the opening of First street to the river?

A. There is nothing between Hudson and River streets except some temporary structures, which are there without any authority from the Hoboken Land and Improvement Co. East of River street there are no buildings in the way but those within the grant and deed to the Dry Dock Co.

Q. At Second street are there any buildings or improvements in the way of opening the street through?

72 A. There is nothing there but the fence on the easterly side of River street. All the Camden and Amboy shops are located south of the extension of the southerly line of Second street.

Q. At Third street?

A. At Third street there is a fence with gates and a large U. S. bonded warehouse that extends clear across the street.

Q. Now, as to the situation of Fifth street. Are there any buildings or improvements in the way?

A. No; there are no buildings in the way; the buildings shown on Exhibit D 3 as being intersected by the extension of the north line of Fifth street are no longer there, but the dock-master's office is still there.

Q. What is that dock-master's office?

A. It is a one-story frame building.

Q. How far has Fifth street been filled in with solid filling?

A. It has been filled in with solid filling down to the pier.

Q. The property marked "piers," running at right angles to and crossing the end of Fifth street; is that solid filling?

A. It is solid filling; it is not pile-work; but the one running out into the river in continuation is pile-work.

Q. In Sixth street is there anything permanent in the way of opening the street?

A. There is nothing there but a fence and the extension of the one-story building which is used as a laboratory by the president of the Stevens' Institute.

73 Q. You have been familiar with the management of the Hoboken Land and Improvement Co. since 1847, have you not?

A. Yes; that is in my testimony.

Q. Have the Hoboken Land and Improvement Co. intended to open River street through from Second street south?

(Objected to, unless some resolution or action of the board of directors of the company is produced in evidence, or it is shown that some official action has been taken by the Co. in reference to the matter.)

A. Prior to my being president of the company it had sold to the Camden and Amboy R. R. Co. the land south of Second street, including the land in the line of the extension of River street; since I have been president of the company it has been my wish and desire to open River street, but the difficulty in the way is the conveyance to the Camden and Amboy R. R. Co. The only conveyances that have been made by the company of land along the line of the extension of River street, except the conveyance to the Camden and Amboy R. R. Co. are for the property on the east and west side of River street between Newark street and First street. Those conveyances were made with reference to River street between First and Second streets; south of Newark street no conveyances have been made by the Co. in the extension of the line of River street, unless it be to the Morris and Essex R. R. Co., south of Ferry street, the grant to which includes the land that would be in the extension of River street, and includes land not shown on the Loss map.

74 Q. When Newark street was extended down and improved were the curbs set and everything arranged with reference to opening River street to the north and the south?

A. They were to the south, on one side; I don't know whether they were on the other or not.

Q. Who owns the property in the line of the extension of River street between First and Newark streets?

A. The Hoboken Land and Improvement Co.

Q. Was any portion of that ever sold by the company?

A. A portion of it was sold by Robert Stevens to Otto.

Q. From whom did the company acquire the title?

A. Mr. Hermann Luhrs, who was the grantee of Otto.

Q. For what purpose was that acquired?

A. For the purpose of opening the street as far as First street.

Q. Will you state when the fence across the line of First street at Hudson street was removed?

A. I think it was about ten years ago, but I cannot state positively.

Q. Since then has not First street been open to the public from Hudson street down?

A. Yes; there has been nothing to prevent anybody from driving down as far as the east line of River street, where there was a fence; since that fence has been removed it is open and is used as a public thoroughfare; First street is not paved or curbed east of Hudson street.

Q. You say that you don't know that the pier on the Loss map ever existed?

A. Not to my knowledge.

75 Q. Has the Loss map always been accepted by your company as reliable to show the condition of things in 1804?

A. It was always accepted as to the creation of the streets and lots as shown on the map and was mentioned in the deeds for the conveyance of the property by the company. It was considered as opening the streets just so far as the streets were shown on it, and no farther. The company have always claimed, under the advice of counsel, that they were entitled to all the land under water beyond the shore line, as shown on the Loss map, and were advised by George Wood and Abram O. Zabriskie that all reclamations beyond that line were the property of the company.

Q. Nevertheless, it never was disputed that the Loss map showed correctly what was upon the face of it?

A. No; it never was disputed.

Q. Has River street ever been mapped south of Second street by the company or its engineers or employés?

A. No.

Q. No map was ever made by you south of Second street showing River street?

A. No.

Q. No map was ever made or filed?

A. No.

Redirect examination by Mr. ABBETT:

Q. State what you know with reference to the Loss map and the action of the company under it with reference to location of property shown on it.

76 A. The Loss map shows no monument or other starting point, except the water lines and the Philadelphia post road, and the Philadelphia post road, as I understand it, or so much of it as is east of Garden street (as shown on the Loss map), is not where the road actually existed. The road west of Garden street was a wide road, I think 88 feet, whereas on the Loss map it is shown but 50 feet wide, making that a very doubtful monument, and I know that up to the summer of 1847 there were no definite monuments to locate streets or lots, and that during that summer arbitrary corners and lines of streets were adopted and monuments placed at the corners, which have been used ever since as starting points. These arbitrary starting points were arrived at by finding the location of certain old buildings that were supposed to be on certain corners, and certain lots and a line that suited nearest to the supposed location of these old buildings was the adopted line. It was taken for granted that those buildings were originally located by the Loss map. Investigation subsequently satisfied us that these buildings were approximately correct, if not actually correct. The old Philadelphia post road, after it left the line of Garden street going east, tended to the south, so I always understood, passing southerly of the line of the post road, as shown on the Loss map, and also south of the buildings shown on the Loss map south of that road. I presume it went down to the dock which was shown on the southerly extremity of the Loss map. By tradition, I understood that the original ferry from Hoboken ran from what is shown on the Loss map as the "pier."

77 Q. What were the buildings that are shown on the east of Washington street and south of the Philadelphia post road on the Loss map?

A. An old hotel, which has since disappeared.

Q. What was the name of the hotel and who held it?

A. Van Buskirks kept it for a great many years; old Mrs. Maria

Van Buskirk must have been 60 years old in 1847, and she was there as a young girl when her father kept it; it must have been there before 1804. The date was in the side of the hotel in brick, but I don't know what the date was.

Q. How long prior to 1804?

A. My impression is that it was 50 or 60 or 70 years. There are men who would be able to tell you what that date was. I think old Uncle Bill Walden would be able to tell you, though his memory is shaky now. I guess Bill Havens, in the gas office, might know, and I have no doubt that Frank Stevens would know. That building had been destroyed long before I came there. I remember as a boy going there one Sunday with my father; it must have been when I was 8 or 10 years old—before I went there to live. There was a high hill there and they were then grading. Those big trees that are standing now in front of Hudson Terrace were left on great balls of earth, I think from 15 to 20 feet high, that were subsequently lowered to the level of the grade, and that work was going on at the time I speak of, but I have no recollection of any hotel.
It must have been about 1835 or 1836 or 1837; to the best of
78 my recollection, the hotel did not exist there in 1836 or 1837;
this was my earlest recollection. It stood on a hill which must have been 25 or 30 feet high, and this has all been dug down and removed. If this hotel had remained it would have been a monument which could have been used to locate by.

Recross-examination by Mr. Niven:

Q. Haven't you had occasion to ascertain by excavations and other investigations about where the high-water line was on the Loss map?

A. Yes; at two places.

Q. Will you state where?

A. On the south and southeast corners of the land as shown on Loss' map, in the neighborhood of Ferry and Hudson streets and between Second and Third streets, east of Hudson.

Q. What information did you get by that investigation; what did you find?

A. We found a beach that we were satisfied was the natural beach, which was substantially where the beach was shown on the Loss map, at both places, showing that the water line, as shown on the Loss map, had the same general direction as we found it had in fact.

Q. How did you make that investigation?

A. Between Second and Third streets we dug long trenches, running east and west, through filling that had been put down, and found the sand or gravel beach between the mud and the upland.

Q. Did you follow that up until you came to the upland?

79 A. Yes.

Q. And were thereby enabled to locate the high-water mark with some degree of accuracy?

A. Yes; and we did the same thing below, except that we did not make the trenches so long, and we sunk wells about midway between the buildings between Washington and Hudson terraces and north of Ferry street, and found the natural beach there also.

Q. Just above the foot of Sixth street the north shore exists now as then, except that there is a walk or road there 15 or 20 feet wide?

A. Yes; with the exception of a road about 20 feet wide; a part of that, I think, is a part of the low line.

Q. Then within your own time the natural beach was exposed above Fourth street, was it not?

A. Yes.

Q. You know that the line, as laid down on the Loss map, corresponds quite accurately with the line as you know it above Fourth street, and as you found it between Second and Third streets by excavating?

A. Yes; there is no doubt about Loss' map being the line of the water marks.

Examination of W. W. Shippen by I. W. Scudder, counsel for Pennsylvania Railroad Company:

Q. Does not Loss' map show an evident incompleteness in its whole
scope and design with reference to the uses and purposes to
80 which the water front should be applied and the manner in
which the same should be used for commercial purposes?

(Question objected to because the map shows for itself.)

A. Loss' map shows an entire incompleteness, so far as any purpose whatever in regard to the use of the water front for commercial purposes. The only wharf or pier shown is a small one, always used, as I have heard, exclusively for a ferry landing. There is no evidence on the map of any design to fill in any part of the water front or to build any wharves, piers, or docks. There are no streets shown on any land then covered by water, nor any street along the river front, nor in fact anything to show that the water front was ever intended to be used in any way.

Q. Describe the improvements put upon Hoboken on lands which were under water when Loss' map was made, and state by whom those improvements were made, and to what use they have been put.

A. The whole of the lands which were under water when Loss' map was made, south of Sixth street, have been filled in from two to five hundred feet east of the water line as shown on said map, and piers have been built about every two hundred feet out into the river east of the filling; dwelling-houses, United States bonded warehouses, machine shops, and almost every sort of building have been put on this filling. These improvements have in all cases been made by the Hoboken Land and Improvement Company or their assigns, principally, and with two exceptions only, by the said company themselves.

Q. During the time while lands were reclaimed from the
81 bed of the river and wharves and piers were constructed for
commercial purposes, were any complaints made or objections
interposed to such reclamations or to the erection of such wharves
and piers?

(Question objected to as not competent, the public right not being lost by laches of the public servants.)

A. No objections or complaints have ever been made to any filling in, or any building, or any pier, or any improvement whatever along the water front. Most of the work has been done since my connection with the company and done under my own supervision and direction, and I would certainly have heard of any such objection or complaint had there been any. There has been nothing of the kind, unless the commencement of these suits might be considered as such, but at the time the improvements were made there was no objection.

W. W. SHIPPEN.

Sworn and subscribed before me this 10th day of May, A. D. 1881.

[SEAL.] FRANK G. HAUGHWOUT,
Notary Public, New York City.

82 *Plaintiff's Exhibits.*

EXHIBIT P 1.

Large map made by Post and Speilman & Brush.

EXHIBIT P 2.

John Stevens and Rachel, his wife, to Peter Crighton. Deed dated April 10, 1805. Recorded in clerk's office, Bergen county, Liber U, page 297, &c.

Conveys all those certain lots of ground situate at Hoboken, in the township and county of Bergen and State of New Jersey aforesaid, and known and distinguished on a map or chart of Hoboken aforesaid by the numbers 75, 76, and 77, bounded westerly in front by Washington street, between Third street and Fourth street; southerly by lot number 74; in the rear by an alley, and northerly by lot number 78, containing in length on each side 100 feet and in breadth in front and rear 75 feet, for twenty-five feet each, as by the said map or chart recorded in the clerk's office of the county of Bergen may fully appear.

EXHIBIT P 3.

John Stevens to Edwin A. Stevens. Deed dated February 1, 1822. Recorded Liber No. 6, Transcribed Deeds, page 258. Consideration, $1.

Conveys all that certain messuage, tenement and house, piece, and parcel of land situate, lying, and being in the township and county of Bergen, in the State of New Jersey aforesaid, and known by the name of Hoboken, bounded northeast by land formerly of
83 Jacobus I. Bogert; northwest by Sale Marsalesse and sundry others; southwest by the meadow of Harsimus, and south-

easterly by Hudson river, containing by survey five hundred and sixty-four acres, but be the same more or less, being the same premises conveyed by and more particularly described in deed from Cornelius Haring, agent of forfeited estates in the county of Bergen aforesaid, to the said John Stevens, dated the 26th day of July, 1784, and recorded in the clerk's office in the county of Bergen aforesaid, in Lib. D of Deeds, fol. 437, &c., on the 7th day of January, 1787; also all that messuage, piece, or parcel of land lying and being in the township of Bergen aforesaid, known by the name of Weehawken, &c.

Exhibit P 4.

Edwin A Stevens to John White. Deed dated June 12, 1832. Recorded in Bergen county clerk's office, Liber L 3, p. 151, &c.

Conveys all that certain lot of ground situated at Hoboken, in the township and county of Bergen and State of New Jersey aforesaid, and known and distinguished in a map or chart of Hoboken aforesaid by the number 59, bounded easterly in front by Washington street, between Second street and Third street; southerly by lot number 58; in the rear by Bloomfield street, and northerly by lot number 60, containing in length on each side 155 feet, and in breadth in front and rear 25 feet, as by the said map or chart recorded in the clerk's office of the county of Bergen may fully appear.

Exhibit P 5.

84 Edwin A. Stevens *et al.* to the Hoboken Land and Improvement Company. Deed dated May 6, 1839. Liber 13, p. 105 of Transcribed Deeds.

Conveys all that certain messuage, tenement and house, piece, and parcel of land situate, lying, and being in the township and county of Bergen, in the State of New Jersey aforesaid, known by the name of Hoboken, bounded northeast by land formerly of Jacobus I. Bogert; northwest by Sale Marsilesse and sundry others; southwest by the meadow of Harsimus, and southeasterly by Hudson river, containing by survey 564 acres, be the same more or less, being the same premises conveyed by and more particularly described in a deed from Cornelius Haring, agent of forfeited estates in the county of Bergen aforesaid, to the said John Stevens, dated the twenty-sixth day of July, 1784, as follows: "All that certain messuage, tenement, house, and piece and parcel of land, &c., known by the name of Hoobockin, situate, lying in the township and county of Bergen; beginning by the mouth of the creek that parts Weehawken from Hoobockin, and from thence running north fifty-two and a half degrees west 33 chains and 35 links; thence south 33 degrees west 28 chains on the top of the hill; thence south 57 degrees east 2 chains; thence south 33 degrees west 30 chains to a heap of stones by a dogwood tree, blazed; thence south 57 degrees east one chain; thence south 33 degrees west ten chains; thence south 57 degrees

east 2 chains; thence south 33 degrees west eleven chains and 30 links to a heap of stones in a path that goes down the hill towards Hoobockin; thence 57 degrees west one chain; thence
south 33 degrees west 19 chains and twelve links; thence
85 south 15 degrees west eight chains 70 links; thence south 55
degrees west 3 chains; thence south 35 degrees west 6 chains
to a large heap of stones near the top of the hill; thence southeasterly down the hill to the edge of the meadow, where the creek runs near the upland—that creek that parts Hoboken and Harsimus; thence easterly all along said creek as it runs to Hutson's or North river; thence northerly up said river, or all along said river, as the said — runs to the mouth of the said creek that parts Weahacken from Hoebockin, the place of beginning; bounded northeast by Jacobus I. Bogert, northwest by Sale Moslesse and sundry others, southwest by the meadows of Harsimus or the creek that divides Hobockin from Harsimus, and southeast by Hutson's river, containing by survey 564 acres, but be it the same more or less," and which said deed to the said John Stevens is recorded in the clerk's office of the county of Bergen aforesaid in Liber D of Deeds, fol. 437, &c., Jan'y 7, 1787; also all that certain messuage, tenement, piece, or parcel of woodland situate, lying, and being in the township and county aforesaid, beginning at a stone planted and marked A 1764; thence north 36 degrees and 30 minutes east 26 chains and 40 links; thence south 52½ degrees east 20 chains; thence south 36½ degrees west 44 chains and 69 links; thence north 52½ degrees 25 chains; thence north 33 degrees east 18 chains and 29 links; thence south 52½ degrees east six chains and 30 links to the place of beginning, containing by survey 125 acres, be the same more or less, and which
said deed to the said Jno. Stevens is recorded in the clerk's
86 office of the county of Bergen aforesaid in Liber D of Deeds,
page 44, on February 7th, 1787.

Exhibit P 6.

The Hoboken Land and Improvement Company to Henry Livessy *et ux.* Deed dated April 1, 1849. Recorded Liber 22, p. 463.

Conveys all that certain lot or piece of land situate, lying, and being in the township of North Bergen, in the county of Hudson and State of New Jersey, being part of a tract of land known by the name of Hoboken, and which, on a map of the said tract made by Charles Loss and filed in the clerk's office in the county of Bergen, is situated and described as follows, viz: Commencing at a point in the easterly line of Garden street, in Hoboken, 165 feet and 10½ inches from the northeast corner of Garden and First streets, and running thence northerly and along the easterly line of Garden street 16 feet; thence easterly and parallel with First street 95 feet; thence southerly and parallel with Garden street 16 feet; thence westerly and parallel with First street 95 feet, to the place of beginning.

EXHIBIT P 7.

The Hoboken Land and Improvement Company to Charles Idell Deed dated October 25, 1851. Recorded Liber 22. p. 505.

Conveys all that certain lot or piece of land situate, lying, and being in the township of Hoboken, in the county of Hudson and State of New Jersey, being part of a tract of land known by the name of Hoboken, and which, on a map of the said tract made by Charles Loss and filed in the clerk's office of the county of 87 Bergen, is situated and described as follows, viz: Commencing at a point in the westerly line of Bloomfield street, in Hoboken, 184 feet northerly from the northwesterly corner of Bloomfield and Second streets, and running thence northerly and along the westerly line of Bloomfield street 22 feet; thence westerly and parallel with Second street 95 feet; thence southerly and parallel with Bloomfield street and along the line of the land of the Hoboken Land and Improvement Company 22 feet, and thence easterly and parallel with Second street 95 feet, to the place of beginning.

EXHIBIT P 8.

The Hoboken Land and Improvement Company to Peter Kerrigan. Deed dated October 24, 1866. Recorded Liber 141, p. 140.

Conveys all that certain lot of land situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey (being part of a tract of land known by the name of Hoboken), and which, on a map of the said tract made by Charles Loss and filed in the clerk's office in the county of Bergen, commences at the southwest corner of Garden and Seventh streets, in Hoboken, and runs thence southerly along the westerly line of Garden street 49 feet; thence westerly and parallel with Seventh street 95 feet; thence northerly to the southerly line of Seventh street and parallel with Garden street 49 feet, and thence easterly along the southerly line of Seventh street 95 feet, to the place of beginning.

EXHIBIT P 9.

88 The Hoboken Land and Improvement Company to Jurgen Frederick Henry Meyer. Deed Nov. 12, 1866. Lib. 141, p. 135.

Conveys all that certain tract or lot of land situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey (being part of a tract of land known by the name of Hoboken), and which, on a map of the said tract made by Charles Loss and filed in the clerk's office in the county of Bergen, commences at a point in the easterly line of Garden street, Hoboken, 90 feet northerly from the northeast corner of Garden and Seventh streets, and runs thence northerly along the easterly line of Garden street 20 feet; thence easterly and parallel with Seventh street 100 feet; thence southerly and parallel with Garden street 20 feet, and thence westerly and parallel with Seventh street 100 feet, to the place of beginning.

EXHIBIT P 10.

The Hoboken Land and Improvement Company and Edwin A. Stevens and wife to the New York Floating Dry Dock Company. Deed dated September 1, 1866, and recorded September 26, 1866, in Liber 137, Conveyances, page 439.

Conveys all that land and premises and land under water, to be made land and gained out of the Hudson river, situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey, and described as follows, viz.: First tract beginning at what would be the intersection of the northerly line of Newark street and the easterly line of River street, if the said streets were continued in straight lines from that part of the same that are laid down on a certain map of
89 Hoboken made by Charles Loss and filed in the clerk's office
in the county of Bergen, said River street being next to and easterly of Hudson street and parallel therewith, which said River street is to be made seventy-five (75) feet wide in front of the property herein and hereby described, and the westerly line thereof to be two hundred (200) feet from the easterly line of Hudson street, and running thence (1st) northerly by and along the easterly line of River street, as above described, four hundred and twenty-five (425) feet; thence (2d) at right angles to the first mentioned and described line four hundred and eighty (480) feet, more or less, to the line marked "exterior line of solid filling," on a certain map made as a part of the report of a certain commission appointed by virtue of an act of the Legislature of the State of New Jersey entitled "An act to ascertain the rights of the State and of the riparian owners in the lands under the waters of the bay of New York and elsewhere in the State, approved April 11, 1864;" thence (3d) southerly down the above-mentioned line of solid filling to a point opposite the point or place of beginning, four hundred and thirty-five feet, more or less, therefrom, which said point is in what would be the northerly line of Newark street if the same were extended out into the Hudson river; thence (4th) westerly and at right angles to the first mentioned and described line four hundred and thirty-five (435) feet, more or less, to the point or place of beginning, said last line being in range with the northerly line of Newark street, excepting out of the said plot a small plot or piece supposed to belong to Mary
90 Otto, which said plot or piece is shown on the small map
hereto annexed. Second tract beginning at a point in the face of the present wharf or bulkhead where the centre line of Newark street would strike the same if said Newark street were extended in a straight line thereto, and running thence (1st) northerly twenty-five (25) feet to the southerly line of the first-described plot; thence (2d) at right angles to the first-mentioned and described line and along the said southerly line of the first-described plot out into the

Hudson river as far as the right of the owners do now or at any time hereafter may extend; thence (3d) southerly down the said Hudson river to a point opposite the point or place of beginning, which said point is in what would be the centre line of Newark street if the same were extended out into the said river; thence (4th) westerly and at right angles to the first mentioned and described line to the point or place of beginning, said last line being in range with the centre line of Newark street.

Also all that tract of land and premises and land under water lying to the east and west and in front of the first above-described tract of land and extending out into the Hudson river as far as the rights of the riparian owners do now or hereafter may extend, with the right to erect piers, docks, wharves, and other improvements in the waters in front of the premises first above described, subject only to such regulations as to exterior as the public authorities may lawfully establish.

EXHIBIT P 11.

The New York Floating Dry Dock Company of the city of
91 New York to Frederick Kuhne, trustee of the German Trans-
atlantic Steam Navigation Company of the city of Hamburg, Germany. Deed, August 31, 1872. Recorded Lib. 246, p. 304; consideration, $600,000.

Conveys all that land and premises and land under water, to be made land and gained out of the Hudson river, situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey, and described as follows, viz: 1st tract beginning at what would be the intersection of the northerly line of Newark street and the easterly line of River street if the said streets were continued in straight lines from that part of the same that is laid down on a certain map of Hoboken made by Charles Loss and filed in the clerk's office in the county of Bergen, said River street being next to and easterly of Hudson street and parallel therewith, which said River street is to be made 75 feet wide in front of the property herein and hereby described and conveyed, and the westerly line thereof to be 200 feet from the easterly line of Hudson street, and running thence, 1st, northerly by and along the easterly line of River street, as above described, 425 feet; thence, 2d, at right angles to the first mentioned and described line, 480 feet, more or less, to the line marked exteriorline of solid filling on a certain map made as a part of the report of a certain commission appointed by virtue of an act
of the Legislature of the State of New Jersey entitled "An act
92 to ascertain the rights of the State and of the riparian owners
in the lands lying under the waters of the bay of New York and elsewhere in the State," approved April 11, 1864; thence, 3d, southerly down the above-mentioned line of solid filling to a point or place of beginning and 435 feet, more or less, therefrom, which said point is in what would be the northerly line of Newark street if the same were extended out into the Hudson river; thence, 4th, westerly and at right angles to the first mentioned and described line 435 feet, more or less, to the point or place of beginning, said.

last line being in range with the northerly line of Newark street, excepting out of the said plot a small plot or piece supposed to belong to Henry Otto, which said plot or piece is shown on a map attached to a deed of the premises therein described, executed by the Hoboken Land and I. Co. and Edwin A. Stevens and Martha B., his wife, to the party of the first part hereto, dated September 1, 1862, and recorded in the clerk's office of Hudson county, N. J., September 26, 1866, in Liber 137 of Deeds, page 439, &c.

Second tract beginning at a point in the face of the present wharf or bulkhead where the centre line of Newark street would strike the same if said Newark street was extended in a straight line thereto, and running thence, 1st, northerly 25 feet to the southerly line of the first-described plot; thence, 2d, at right angles to the first mentioned and described line, and along the said southerly line of the first-described plot, out into the Hudson river as far as the rights of riparian proprietors do now or may at any time hereafter extend; thence, 3d, southerly down the said Hudson river to a
93 point opposite the point or place of beginning, which said point is in what would be the center line of Newark street, if the same was extended out into the said river; thence, 4th, westerly and at right angles to the first mentioned and described line to the point or place of beginning, said last line being in range with the centre line of Newark street; said last mentioned and described plot to be held in trust, subject to the provisions and conditions of a certain agreement between the H. L. & I. Co., of the first part, and the N. Y. Floating Dry Dock Company, of the second part, which agreement bears date September 1, 1866, and provides, amongst other things, that the said land and land under water, to be made land and gained out of the Hudson river, as mentioned and described in the last-described tract, shall be used only for the purpose of building therefrom and thereon a pier, or in case the whole or any part thereof shall hereafter at any time be filled in and made land, then it is to be used as an open street for the joint use of the property fronting thereon, and for no other purpose whatever.

Also all that tract of land and premises and land under water lying to the east and in front of the first above-described tract of land and extending out into the Hudson river as far as the rights of riparian proprietors do now or may hereafter extend, with the right to erect piers, docks, wharves, and other improvements in the waters in front of the premises first above described, subject only to such regulations as to exterior lines as the public authorities may lawfully establish, together with all and singular, &c., and
94 also all manner of wharfage, cranage, advantage, and emolument growing out of or accruing or that may hereafter grow or accrue at or from the easterly side or front of the same on the Hudson river, and also the right to fill up and reclaim the lands below high-water mark in the Hudson river in said tract first above described, and to appropriate the same to his own use, excepting to the H. L. & I. Co. the right of ferriage exclusively.

EXHIBIT P 12.

The German Transatlantic Steam Navigation Company to Adolph E. Schmidt *et al.* Deed, January 23, 1878. Recorded Liber 320, p. 156.

Conveys all that land and premises and land under water, to be made land and gained out of the Hudson river, situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey, and described as follows, viz: 1st tract beginning at what would be the intersection of the northerly line of Newark street and the easterly line of River street, if the said streets were continued in straight lines from that part of the same that are laid down on a certain map of Hoboken made by Charles Loss and filed in the clerk's office in the county of Bergen, said River street being next to and easterly of Hudson street and parallel therewith, which said River street is to be made seventy-five feet wide in front of the property herein and hereby described and conveyed, and the westerly line thereof to be 200 feet from the easterly line of Hudson
street, and running thence, 1st, northerly by and along the
95 easterly line of River street, as above described, 425 feet;
thence, 2d, at right angles to the first mentioned and described line 480 feet, more or less, to the line marked "exterior line of solid filling" on a certain map made as a part of the report of a certain commission appointed by virtue of an act of the Legislature of the State of New Jersey entitled "An act to ascertain the rights of the State and of the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the State, approved April 11, 1864;" thence, 3d, southerly down the above-mentioned line of solid filling to a point opposite the point or place of beginning and 435 feet, more or less, therefrom, which said point is in what would be the northerly line of Newark street if the same were extended out into the Hudson river; thence, 4th, westerly and at right angles to the first mentioned and described line 435 feet, more or less, to the point or place of beginning, said last line being in range with the northerly line of Newark street, excepting out of the said plot a small plot or piece, supposed to belong to Henry Otto, which said plot or piece is shown on a map attached to a deed of the premises herein described, executed by the Hoboken L. & I. Co. and Edwin A. Stevens and Martha B., his wife, to the N. Y. Floating Dry Dock Company, dated Sept. 1, 1862, and recorded in the clerk's office of Hudson Co., N. J., Sept. 26, 1866, in Liber 137 of Deeds, page 439, &c. 2d tract beginning at a point in the face of the present wharf or bulkhead where the centre line of Newark St. would strike the same if said Newark St. was extended in a straight line thereto, and running
thence, 1st, northerly 25 feet to the southery line of the
96 first-described plot; thence, 2d, at right angles to the first
mentioned and described line and along the said southerly line of the first-described plot and into the Hudson river as far as the rights of the riparian proprietors do now or may at any time hereafter extend; thence, 3d, southerly down the said Hudson river to

a point opposite the point or place of beginning, which said point is in what would be the centre line of Newark street if the same were extended out into the said river; 4th, westerly and at right angles to the first-mentioned and described line to the point or place of beginning, said last line being in range with the centre line of Newark St., said last mentioned and described plot to be held in trust, subject to the provisions and conditions of a certain agreement between the H. L. & I Co., of the first part, and the N. Y. Floating Dry Dock Co., of the second part, which agreement bears date Sept. 1, 1866, and provides, among other things, that the said land and land under water, to be made land and gained out of the Hudson river, as mentioned and described in the last-described tract, shall be used only for the purpose of building therefrom and thereon a pier, or in case the whole or any part thereof shall hereafter at any time be filled in and made land, then it is to be used as an open street for the joint use of the property fronting thereon, and for no other purpose whatever.

Also that tract of land and premises and land under water lying to the east and in front of the first above-described tract of land and extending out into the Hudson river as far as the rights of the 97 riparian proprietors do now or may hereafter extend, with the right to erect piers, docks, wharves, and other improvements in the waters in front of the premises first above described, subject only to such regulations as to exterior lines as the public authorities may lawfully establish, together with —.

Exhibit P 13.

The Hoboken Land and Improvement Company to the North German Lloyd. Deed, April 23, 1872. Recorded Book 237, page 701.

Conveys all that certain lot, piece, or parcel of land, land under water, and premises situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey, and more particularly bounded and described as follows—that is to say, beginning at a point in the easterly line of River street distant 270 feet easterly from the easterly line of Hudson street, measured on a line parallel to the northerly line of Second street (as said Hudson and Second streets are laid down on the map of Hoboken made by Charles Loss and filed in the clerk's office of the county of Bergen), which said point is also distant 50 feet northerly from the corner formed by the intersection of the northerly side of Second street extended with the easterly line of River street, running thence eastwardly and along a line parallel to the northerly line of Second street extended 517 feet 6 inches, be the same more or less, to the line known as the exterior line of solid filling, as the same is established by the commissioners of the State of New Jersey; thence northwardly along said exterior line 98 for solid filling 50 feet three inches, more or less, to a pier now constructed and the line of a shed or building thereon;

thence eastwardly and along the line of said pier and of said shed or building, and along the northerly line of certain premises conveyed by the parties of the first part to the Camden and Amboy Railroad and Transportation Co. by deed dated Feb'y 15, 1872, and now in the actual occupation of said company, the line of said pier and shed and of the land of said last-mentioned company being parallel or nearly so to the northerly line of Second street extended and distant about 99 feet 9 inches therefrom, out into the North or Hudson river to the centre thereof, as far as the rights and privileges of the said parties of the first part do now or may hereafter extend; thence northwardly and on a line parallel to River street 111 feet, be the same more or less, to the southerly line of certain premises conveyed by the said parties of the first part to Henry Oelrichs and others by deed dated Jan'y 26, 1870, and recorded in the office of the clerk of Hudson county, in Liber 207 of Deeds, page 633, M'ch 10, 1870, and now owned by the parties of the second part thereto; thence westwardly along a line parallel with the centre line of Third street extended and along said last-mentioned premises to a point which is distant 392 feet easterly from the easterly line of River street, measured on a line at right angles thereto; thence northwardly parallel with River street and still along said premises as aforesaid conveyed to Henry Oelrichs and others 70 feet; thence
westwardly parallel with said center line of Third street ex-
99 tended and still along the line of said last-mentioned prem-
ises 312 feet, to a point which is distant 80 feet easterly from River street and 170 feet southerly from an iron bolt in the centre line of Third street, as the same is widened; thence northwardly on a line parallel to River street 135 feet to the southerly side of Third street as widened; thence westwardly along Third street 30 feet; thence southwardly on a line parallel to River street 100 feet; thence westwardly on a line parallel to Third street 50 feet to the easterly side of River street, and thence southwardly along River street 265 feet to the point or place of beginning, being the premises shown on the annexed diagram and enclosed by the letters A, B, C, D, E, F, G, H, I, J, K, and L, and the red lines thereon, together —.

EXHIBIT P 14.

Cornelius Haring, agent, &c., to John Stevens. Deed dated July 26, 1784. Recorded in the Bergen county clerk's office in Liber D of Deeds, page 437.

Conveys, beginning by the mouth of the creek that parts Weehawken from Hoboken, and from thence running north fifty-two and a half degrees west thirty-three chains and thirty-five links; thence south thirty-three degrees west twenty-eight chains on the top of the hill; thence south fifty-seven degrees east two chains; thence south thirty-three degrees west thirty chains to a heap of stones by a dogwood tree, blazed; thence south fifty-seven degrees
east one chain; thence south thirty degrees west ten chains;
100 thence south fifty-seven degrees east two chains; thence
south thirty-three degrees west eleven chains and thirty

links to a heap of stones in a path that goes down the hill towards Hoboken; thence fifty-seven degrees west one chain; thence south thirty-three degrees west nineteen chains and twelve links; thence south fifteen degrees west eight chains and seventy links; thence south fifty-five degrees west three chains; thence south thirty-five degrees west six chains to a large heap of stones near the top of the hill; thence southeasterly down the hill to the edge of the meadow where the creek runs near the upland—that creek that parts Hoboken and Harsimus; thence easterly along said creek as it runs to Hudson or North river; thence northerly up said river or along said river, as the said river runs to the mouth of the said creek that parts Weehawken from Hoboken, the place of beginning; bounded northeast by Jacobus I Bogert; northwest by Sales Marselis and sundry others; southwest by the meadow of Harsimus or the creek that divides Hoboken from Harsimus, and southeast by the Hudson river, containing by survey five hundred and sixty-four acres, be the same more or less.

EXHIBIT P 15.

Loss' map of 1804.

EXHIBIT P 16.

Appendix map to P 1.

EXHIBIT P 17.

Frederick Kuhne to to the German Transatlantic Steam Nav. Co. Declaratiou of trust, August 31, 1872. Recorded Lib.
101 246, p. 311.

Whereas the N. Y. Floating Dry Dock Co., of the city of N. Y., has this day conveyed to Fred'k Kuhne, trustee of the German Trans. Steam Nav. Co., certain property situate in the city of Hoboken, county of Hudson and State of N. J., more particularly described in the deed of conveyance bearing even date herewith, it being the same property heretofore conveyed by H. L. & I. Co. *et al.* to N. Y. Floating Dry Dock Co. by deed dated Sept. 1, 1866, and recorded in Co. clerk's office of Hudson county in Liber 137 of Deeds, page 439, &c;

And whereas said German Trans. Steam Nav. Co. has furnished the consideration money of said purchase, but said property has been conveyed to said Fred'k Kuhne because said German Trans. St. Co. is a foreign corporation, created by laws of Hamburg, in Germany, said property to be held in trust by him for sole use and benefit of said last-mentioned Co. until it shall have obtained the right and authority from the State of N. J., to hold said property in its own name as a corporation:

Now, therefore, I, said Frederick Kuhne, do hereby make and execute this declaration of truth, to wit, that I do hold and will hold said property and the title thereof in trust for the sole use and benefit of said German Transatlantic Steam Navigation Company until the same shall have obtained the right and authority from the State

of New Jersey to have and to hold said property and the legal title thereof in its own name as a corporation, and that I will then convey and transfer the said property to the said German Trans-
102 atlantic Steam Navigation Co.

In testimony whereof I have hereunto set my hand and seal, at the city of New York, this 31st day of August, 1872.

FREDERICK KUHNE.

Signed in presence of—
RUDOLF DULON.

Acknowledged and certified.

Exhibit P 18.

Edwin A. Stevens and wife to William A. Palmer, Jacob Deusch, and John Shotwell. Deed dated Sept. 18, 1860; cons., $12,000. Liber 84, p. 270.

All that lot of land commencing at the northeasterly corner of Hudson and Newark streets, in Hoboken, and running thence easterly and along the northerly line of Newark street two hundred feet to the westerly line of where River or E street will come when the same is continued straight, and running thence northerly and along the westerly line of said proposed straight continuation of River street and parallel with Hudson street fifty (50) feet; thence westerly and parallel with Newark street two hundred (200) feet to the easterly line of Hudson street and thence southerly and along the easterly line of Hudson street fifty (50) feet to the place of beginning.

103 *Defendants' Exhibits.*

The following exhibits were, by consent of the respective counsel, offered and read in evidence on the part of the defendants:

Exhibit D 1.

Map of 1852.

Exhibit D 2.

The Hoboken Land and Improvement Company to Camden and Amboy Railroad Company. Deed Dec. 1, 1864.

This indenture, made this first day of December, A. D. eighteen hundred and sixty-four, between the Hoboken Land and Improvement Company, an incorporated company of the State of New Jersey, of the first part, and Edwin A. Stevens and Martha, his wife, of the township of Weehawken, in the county of Hudson and State of New Jersey, of the second part, and the Camden and Amboy Railroad and Transportation Company, of the third part, witnesseth:

That the said parties of the first part and second part, for and in consideration of the sum of sixty-eight thousand five hundred and eighty-three $\frac{33}{100}$ (68,583.33) dollars, lawful money of the United States

to them in hand paid by the party of the third part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, aliened, released, conveyed, and confirmed, and by these presents do grant,
104 bargain ,and sell, alien, release, convey, and confirm, unto the party of the third part, their successors and assigns, all that certain piece or parcel of land and premises and land under water to be made land and to be gained out of the North or Hudson river situated, lying, and being in the city of Hoboken, in the county of Hudson, in the State of New Jersey, and bounded and described as follows, viz: Beginning at the point where the westerly line of River street would intersect with the southerly line of Second street if the said streets were continued in a straight line from where the same are laid out and located as streets to the point of intersection of the two above-mentioned lines thereof, and running thence (1st) southerly and parallel with Hudson street, in Hoboken aforesaid, one hundred feet (100), said last line being in the range of the westerly line of River street where the same is laid out, and thence (2d) at right angles to the first line, being a line parallel with Second street, in Hoboken, out into the North river or Hudson as far as the rights of the parties of the first part and second part, or either of them, do now or at any time hereafter may extend; thence (3d) northerly up the said river to a point one hundred and fifty feet distant at right angles from the last-mentioned line; thence (4th) westerly parallel to the second corner and one hundred and fifty feet distant therefrom and in range with the northerly line of Second street, in Hoboken, to a stone monument marked at high-water mark on the shore of the Hudson river; thence (5th) southerly at right angles
105 to said last-mentioned line fifty (50) feet to a point in range with the southerly line of Second street aforesaid, and thence (6) westerly and in range with the southerly line of Second street to the place of beginning, together with all the right, title, and interest, property, claim, and demand whatsoever of the parties of the first and second parts of, in, and to the same, and also of, in, and to all manner of wharfage, cranage, advantage, or emoluments, growing or accruing, or that may hereafter grow or accrue, from the easterly side or front of the same in the Hudson river, and also the rights of the parties of the first and second parts to fill up and reclaim land below high-water mark on the Hudson river or said tract and in front thereof, and to appropriate the same to their own use, except that no right of ferry is granted with said land or as appurtenances thereto, and the grant and conveyance hereby made are subject to the condition that no ferry is to be established thereon between the said land and the city of New York or Brooklyn without the written consent of the party hereto of the first part, their successors or assigns, proprietors or owners of the ferries between Hoboken and New York; and the said grant and conveyance are hereby accepted by the said party hereto of the third part on the express condition that they and their successors and assigns will not establish, run, or maintain, or permit to be established, run, or maintained, any ferry whatever from any part of said

tract of land or any dock or wharf erected or to be erected thereon or adjoining or in front of the same to the city of New York or Brooklyn, and that if they, the said party of the third part, their successors or assigns, should, contrary to
106 the said last-mentioned condition, establish, run, or maintain any such ferry as last aforesaid it shall be at the option of the said party of the first part, their successors and assigns, owners of the said Hoboken ferries as aforesaid, either to claim such legal or equitable relief upon the said last-mentioned condition and reservation as they might be entitled to demand or to demand and receive from the said party of the third part, their successors and assigns, the sum of fifty thousand dollars per annum by way of rent or compensation for the exercise of such franchise, which rent the said party of the first part shall be entitled to claim, demand, and receive from the said party of the third part, their successors and assigns, from the time of the commencement of running such ferry and for such length of time thereafter as the said party of the first part, their successors and assigns, shall choose to permit and allow the said ferry to be run and maintained.

It is hereby understood by and between the parties to these presents that the right of ferry above accepted from the premises hereby conveyed shall never be so construed as to authorize the party of the first and second parts or either of them to run a ferry boat or boats to or from the docks or lands hereby conveyed or to erect any dock or wharf in front of the property hereby conveyed without the consent in writing of the said party of third part, their successors or assigns.

107 It is further hereby understood and agreed by and between the parties to these presents that a strip of land fifty (50) feet in width north of and adjoining that part of the hereinbefore-described tract hereby conveyed, or intended to be conveyed, which is east of the westerly line of River street and as far to the eastward as the stone monument, shall be and remain open for the joint use of all of the parties to these presents as a passage-way for wagons and carriages, as well as persons, but that the same shall not by consent of any of the parties to these presents be made a public road or street, and also a right of way, in range of Second street, from said premises to Hudson street.

And it is further understood and agreed between the parties to these presents that the right to fill in, reclaim the land under water hereby conveyed, and to build and construct wharves, docks, and piers thereon shall not be construed to convey any right to lay boats or vessels or in any way other to use or occupy the water north or south of the most northerly or southerly of the lines herein described, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest, dower, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said parties of the first and second parts of, in, and to the same and every part and parcel thereof, 108 with the appurtenances; to have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said party of the third part, their successors and assigns, to their only proper use, benefit, and behoof, forever.

And the said parties of the first and second parts for themselves, their successors, heirs, executors, and administrators, do covenant, grant, and agree to and with the said party of the third part, their successors and assigns, that the said parties of the first and second parts, at the time of the sealing and delivery of these presents, are lawfully seized in possession of a good, absolute, and indefeasible estate of inheritance in fee simple of and in all and singular the above granted and described premises, with the appurtenances, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in the manner aforesaid; and the said party of the third part, their successors and assigns, shall and may at all times hereafter peaceably and quietly have, hold, use, occupy, possess, and enjoy the above-granted premises and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said parties of the first and second parts, their heirs, successors, and assigns, or any other person or persons lawfully claiming or to claim the same, and that the same are now free, clear, discharged, and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and incumbrances of what nature or kind soever; and also that the said parties of the first part and
109 second part and their successors and all — every person and persons whomsoever lawfully or equitably deriving any estate, right, title, or interest of, in, or to the hereinbefore-granted premises of, for, or in trust for them shall and will at any time or times hereafter, upon the reasonable request and at the proper costs and charges in the law of the said parties of the third part, their successors and assigns, make, do, and execute, and cause to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law for the better and more effectual vesting and confirming the premises hereby granted or so intended to be in and to the said parties of the third part, their successors and assigns, forever, as by the said parties of the third part, their successors or assigns, or their council learned in the law, shall be reasonably advised or required; and the said parties of the first and second parts, their heirs and successors, the above-described and hereby granted and released premises and every part and parcel thereof, with the appurtenances, unto the said parties of the third part, their successors and assigns, against the said parties of the first and second parts and their heirs and successors and against all and every person and persons whomsoever lawfully claiming or to claim the same shall and will covenant and by these presents forever defend.

In witness whereof the said party of the first part have hereunto caused their corporate seal to be affixed and the names of Edwin A. Stevens, their president, to be subscribed, and the said party

110 of the second part have hereto set their hands and seals the day and year just mentioned.

E. A. STEVENS, [L. S.]
Pres. H. L. & Imp. Co.
E. A. STEVENS. [L. S.]
M. B. STEVENS. [L. S.]

Signed, sealed, and delivered in the presence of (the words "also" a right of way in range of Second street from said premises to Hudson street *intended* before execution; also the word "right" on 9th page)—

(S'g'd) W. W. SHIPPEN,
A. COXE,
As to the H. L. & I. Co.

EXHIBIT D 3.

State of New Jersey to The Hoboken Land and Improvement Company. Deed dated Dec. 31, 1869.

Know all men by these presents, &c.

And whereas the said The Hoboken Land and Improvement Company, on or about the sixth day of May, one thousand eight hundred and thirty-nine, did purchase from Edwin A. Stevens and others, the children of John Stevens, then lately deceased, and from his widow, in fee simple, certain lands in the now city of Hoboken, including, amongst others, the lands and premises hereinafter described, which lands and premises *and* the said company doth still possess and occupy and own, and are described as follows—that is to say: Beginning at a point in the easterly line of River street
111 three hundred and thirty feet southwardly from the southerly line of Third street, in said city, thence (1) running northwardly along the easterly line of River street seven hundred and ten feet; thence (2) eastwardly to the Hudson river on a course parallel with Third street, if the same were extended in a direct line eastwardly; thence (3) southwardly along the Hudson river seven hundred and ten feet or thereabouts to a point eastwardly from the point of beginning on a course parallel with Third street, if the same were extended as aforesaid; thence (4) westwardly on the said course parallel with Third street, if extended as aforesaid, to the place of beginning, being bounded on the west by River street, on the east by the Hudson river, and on the north and south by lands parallel with the course of Third street aforesaid, as in and by the said deed of conveyance from Edwin A. Stevens and others will more fully appear, the said deed being recorded in the clerk's office of Bergen county in Liber N 4 of Deeds, pages 287 to 312:

And whereas the said The Hoboken Land and Improvement Company, being so seized and possessed as aforesaid of the said tract of lands adjoining the Hudson river as aforesaid, hath produced to the said commissioners a duly certified copy of said legislative act incorporating said corporation, passed February twenty-first, one

thousand eight hundred and thirty-eight, and hath made application
in writing requesting such grants and benefits as in the fourth
said section of said supplementary act; and whereas it appears to the
commissioners that the said The Hoboken Land and Improvement
112 Company hath by their charter such grant and license,
power and authority, as in the said fourth section is mentioned
and are entitled to said paper, capable of being acknowledged
and recorded, and granting the titles and leases aforesaid upon payment
of such consideration as aforesaid; and whereas such consideration,
to wit, the sum of thirty-five thousand five hundred dollars,
being fifty dollars for each lineal foot, measuring on the bulkhead in
front of the land included in this conveyance, has been paid by the
said The Hoboken Land and Improvement Company to the treasurer
of said State: Now, therefore, know ye that the said State of New
Jersey, by the commissioners, with the said Governor and attorney
general for the time being, in consideration of said sum of thirty-five
thousand five hundred dollars to the treasurer of the State for the
State duly paid, hath granted, conveyed, and confirmed, and by
these presents grant, convey, and confirm, unto the said The Hoboken
Land and Improvement Company so much of the land and
premises above described as may have been originally below the
line of high-water mark, and all lands under water in front of the
lands above described and extending therefrom to the exterior bulkhead
and pier lines in the Hudson river recommended by the commissioners
appointed under the act aforesaid, approved April 11,
1864, adopted and established in and by the said supplemental act,
and bounded northerly and southerly by parallel lines projected in
direct continuation of the north and south boundary lines
113 of said lands above described, on a course parallel with the
lines of Third street as aforesaid, which said lands above described
and lands under water in front thereof, taken together, are
described as follows: All and singular the lands and premises hereinafter
particularly described situate, lying, and being in the city of
Hoboken and State of New Jersey—that is to say, all the lands now
or formerly under water in Hudson river below the present or any
former line in high-water mark which are comprised within the following
metes or bounds—that is to say:

Beginning in the easterly line of River street three hundred and thirty feet southwardly from the southerly line of Third street if the same were extended in a continuous line easterly from its present termination; thence (1) northwardly along the easterly line of River street seven hundred and ten feet; thence (2) eastwardly parallel to the direction of Third street, if the same were extended as aforesaid, six hundred and forty feet to the exterior line for solid filling in the Hudson river, as shown on sectional map number six, made by the commissioners appointed under the act approved April 11, 1864, entitled "An act to ascertain the rights of the State and the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in this State," and adopted and established by the supplement thereto hereinbefore referred to; thence (3) southwardly along the said exterior line for solid filling seven hundred and ten feet, more or less, to a point opposite the point of beginning, and in a course therefrom parallel to the direction of Third street

114 five hundred and thirty feet to the place of beginning, and also all the lands under water lying between the abovementioned exterior line for solid filling and the exterior line for piers as fixed by the said commissioners appointed by said act, approved May 4, 1864, and shown on the sectional map aforesaid, bounded by the northerly and southerly lines of the above-described tract produced eastwardly to the Hudson river: Provided, That the above are only to be used for the purpose of piers or wharves to be constructed; and likewise any and all lands under water lying in front of that above described, and bounded by the northerly and southerly lines thereof, to any points to which the said lines for solid filling and exterior lines for piers, respectively, agreeably to the terms of said extension; to have and hold, &c.

THEODORE F. RANDOLPH, *Governor.*

Signed in the presence of—
ROBERT C. BACOT,
PETER VREEDENBERGH,
CHARLES S. OLDEN,
BENNINGTON F. RANDOLPH,
FRANCIS S. LATHROP,
Commissioners.
ROBERT GILCHRIST,
Att'y General.
HORACE N. CONGAR,
Secretary of State.

115 EXHIBIT D 4.

Map showing shore-front property and improvements thereon. October 29, 1878.

EXHIBIT D 5.

The State of New Jersey to Frederick Kuhne, trustee of the German Transatlantic Steam Navigation Company of Hamburg. Grant dated 9th November, 1872. Liber 249, p. 248, &c.

To all whom these presents shall come or who shall be concerned the State of New Jersey sendeth greeting:

Whereas under and by virtue of a certain act of the Legislature of the State of New Jersey, approved April 11, 1864, entitled "An act to ascertain the rights of the State and of the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the State," certain persons were duly appointed and constituted commissioners to execute and discharge the duties in said act set forth and upon them imposed, and, among other things, to fix and establish an exterior line in certain bays and rivers in said act mentioned beyond which no pier or permanent obstruction of any kind should be permitted to be made;

And whereas afterwards said commissioners having fixed such exterior line in the tide water of certain of said waters, bays, and rivers, to wit, the Hudson river, New York Bay, and Kill Von Kull, lying between Enyard's dock, in the Kill Von Kull, in the
116 New York State line, the same were by another act of the
Legislature, approved March 31, 1869, supplementary to said first-mentioned act, adopted and declared to be fixed and established as the exterior bulkhead and pier lines between the points above named, as by the first section of last-mentioned act will more fully appear;

And whereas by the sixth section of said supplemental act it was enacted that four commissioners should be appointed by the Governor, with the advice and consent of the senate, to complete as much of the details of the work assigned to them by such original act, by surveys and otherwise, on the Hudson river, New York Bay, and Kill Von Kull as in their judgment the interests of the State required, which commissioners were afterwards so appointed, to wit, Francis S. Lathrop, Peter Vredenburgh, Charles S. Olden, and Bennington F. Randolph;

And whereas by the third section of said supplementary act it was enacted, among other things, that neither that section nor any provision in said supplementary act contained should in anywise repeal or impair any grant of land under water or right to *pro*claim made directly by legislative act, or grant or decree, power or authority so made or given to purchase, fill up, occupy, possess, and enjoy lands covered with water fronting and adjoining lands owned or authorized to be owned by the corporation or grantee in the legislative act mentioned, its, his, or their representatives, grantees, or assigns, or to repeal or impair any grant or license, power or authority, to erect or build docks, wharves, and piers opposite and ad-
117 joining lands owned or authorized to be owned by the cor-
poration or grantee or licensee in the legislative act mentioned, its, his, or their representatives, grantees, or asssigns, heretofore made or given directly by legislative act, whether said acts are or are not repealable;

And whereas by the fourth section of said legislative act it was enacted, among other things, that in case any person or corporation who by any legislative act was a grantee or licensee, or had such power or authority, or any of his or their representatives or assigns should desire a paper capable of being acknowledged and recorded made by and in the name of the State of New Jersey, conveying the land in the proviso to the third section of said supplementary act mentioned, whether under water or not, and the benefit of an express covenant that the State would not make or give any grant or license, power or authority, affecting lands under water in front of said lands, then and in either of such cases such person or corporation, grantee or licensee, having such grant or license, power or authority, his or their representatives or assigns, on producing a duly certified copy of such legislative act to said commissioners, and, in case of a representative or assignee, show satisfactory evidence of his or their being such representative or assign, and requesting such

grant and benefits as in that section mentioned, should be entitled to said paper, so capable of being acknowledged and recorded, and granting the title and benefits aforesaid, on payment of the consideration therein mentioned, had the commissioners, or any
118 two of them, with the Governor and attorney general for the
time being, to be shown by the Governor signing the grant and the attorney general attesting it, should and might execute and deliver and acknowledge, in the name and on behalf of the State, a lease in perpetuity to such grantee or licensee or corporation having such grant, license, power, or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, upon his, her, or their securing to be paid to the State an annual rental of three dollars for each and every lineal foot, measuring on the bulkhead line, or a conveyance to such grantee or licensee or corporation having such grant, license, power, or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, in fee, upon his, her, or their paying to the State fifty dollars for each and every lineal foot, measuring on the bulkhead line in front of the land included in such conveyance;

And whereas the Hoboken Land and Improvement Company, a corporation existing by and under an act of the Legislature of the State of New Jersey passed the twenty-first day of February, one thousand eight hundred and thirty-eight, entitled "An act to incorporate the Hoboken Land and Improvement Company," were, among other things, authorized to purchase, hold, and improve real and personal property in this State, provided they should not hold more than one thousand acres of land at any one time, and were also authorized and empowered to purchase, fill up, occupy,
119 possess, and enjoy all lands covered with water fronting and
adjoining the lands that might be owned by them, and to construct thereon wharves, harbors, piers, and slips, and all other structures requisite or proper for commercial and shipping purposes, as in and by said act, reference being thereunto had, may more fully and at large appear;

And whereas the said The Hoboken Land and Improvement Company, on or about the sixth day of May, one thousand eight hundred and thirty-nine, did purchase from Edwin A. Stevens and others, the children of John Stevens, then lately deceased, and from his widow, in fee simple, certain lands in the said city of Hoboken adjoining the Hudson river, and other lands in Hudson county, including, amongst others, the lands and premises hereinafter described and conveyed, subject, however, to a leasehold interest of Robert L. Stevens in a part thereof, which leasehold interest became vested in Edwin A. Stevens;

And whereas the said Edwin A. Stevens and the said Hoboken Land and Improvement Company, by deed bearing date the first day of September, in the year 1866, conveyed the premises hereinafter described and conveyed to the New York Floating Dry Dock Company, subject to certain rights in the said deed stated;

And whereas the said New York Floating Dry Dock Company, by deed bearing date the 31st day of August, A. D. 1872, did convey the same premises to Frederick Kuhne, trustee of the German Transatlantic Steam Navigation Company of the city of Hamburg, Germany;

120 And whereas the said Frederick Kuhne, being so seized and possessed as aforesaid of the said tracts of land adjoining the Hudson river as aforesaid hereby conveyed, hath produced to said commissioners a duly certified copy of said legislative act incorporating the said The Hoboken Land and Improvement Company, passed February 21, 1838, and hath made application in writing requesting such grants and benefits as in the fourth section of said supplementary act is mentioned, and agreeing to pay therefor the consideration mentioned in the said fourth section of said supplemental act;

And whereas it appears to the said commissioners that the said Frederick Kuhne hath, by and under the said charter of the said The Hoboken Land and Improvement Company and the conveyances aforesaid, such grant and license, power and authority, as in the said fourth section is mentioned, and is entitled to said paper, capable of being acknowledged and recorded, and granting the title and benefits aforesaid upon payment of such consideration as aforesaid;

And whereas such consideration, to wit, the sum of twenty-two thousand six hundred and twenty-five dollars, being fifty dollars for each lineal foot, measuring on this bulkhead line in front of the land included in this conveyance, has been paid by the said Frederick Kuhne to the treasurer of said State: Now, therefore, know ye
that the said State of New Jersey, by said commissioners, with
121 the said Governor and attorney general for the time being, in
consideration of the sum of twenty-two thousand six hundred and twenty-five dollars to the treasurer of said State for the said State duly paid, hath granted, conveyed, and confirmed, and doth by these presents grant, convey, and confirm, unto the said Frederick Kuhne, trustee of the German Transatlantic Steam Navigation Company, and to his heirs and assigns forever—

1st. All that tract of land situate in Hoboken, in the county of Hudson and State of New Jersey, beginning at a point which would be the intersection of the northerly line of Newark street and the easterly line of River street, if the streets were continued in straight lines from that part of the same that is laid down on a certain map of Hoboken made by Charles Loss and filed in the clerk's office of the county of Bergen, said River street being next to and easterly of Hudson street and parallel therewith and its westerly line being two hundred feet easterly from the easterly line of Hudson street and its easterly line seventy-five (75) feet easterty from its westerly line, running thence (1st) northerly by and along the easterly line of River street, as above described, four hundred and twenty-five (425) feet; thence (2d) at right angles to the first mentioned and described line four hundred and eighty (480) feet, more or less, to the line marked "exterior line of solid filling" on a certain map made as a part of the report of a certain commission appointed by virtue

of an act of the Legislature of the State of New Jersey, entitled "An
act to ascertain the rights of the State and of the riparian
122 owners in the lands lying under the waters of the Bay of New
York and elsewhere in the State," approved April 11, 1864;
thence (3) southerly, down the above-mentioned line four hundred and twenty-seven feet and six inches to a point opposite the point or place of beginning, and four hundred and thirty-five (435) feet, more or less, therefrom, which said point is in what would be the northerly line of Newark street if the same were extended out into the Hudson river; thence (4) westerly and at right angles to the first mentioned and described line four hundred and thirty-five (435) feet, more or less, to the point or place of beginning, said last-mentioned line being in range with the northerly line of Newark street, excepting out of said plot a small plot or piece supposed to belong to Henry Otto, which said plot or piece is shown on the map annexed to the application of this grant; also (2d) beginning at a point on the face of the wharf or bulkhead where the centre line of Newark street would strike if said Newark street was extended in a straight line thereto, and running thence (1st) northerly twenty-five (25) feet to the southerly line of the first-described plot; thence (2) at right angles to the first-mentioned line and along the said southerly line of the first-described plot to exterior line for solid filling aforesaid; thence (3) southerly along the said exterior line to a point opposite the place of beginning, which said point is in what would be the centre line of Newark street if the same were extended
out into the said river; thence (4) westerly and at right angles
123 to the first mentioned and described line to the point or place
of beginning.

Also all of the land under water and piers thereon which lies easterly and in front of the said two tracts, bounded westerly by the easterly lines of the said two tracts, easterly by the exterior line for piers, extended northerly by the northerly line of the first-mentioned tract, easterly to the said exterior line for piers, and southerly by the southerly line of the second-mentioned tract, extended easterly to the said exterior line for piers, with the right to build upon this tract between the two exterior lines only piers:

To have and to hold the lands above described, with the appurtenances, especially the right to fill up, reclaim, and improve the said lands under water, and to erect wharves and piers thereon out to the exterior bulkhead and pier line further out in said river, which may be established by legislative authority, unto the said Frederick Kuhne, his heirs and assigns, forever—

Subject to all the conditions, claims, covenants, trusts, and mortgages which remain in force and to which the title of said Kuhne is made subject by any of the instruments under which he claims title to any part of the premises above described and conveyed.

And the said State of New Jersey doth further hereby covenant expressly with the said Frederick Kuhne and his heirs and assigns
that the said State of New Jersey will not make or give any
124 grant or license, power or authority, affecting lands under
water in front of said lands hereby conveyed, and that the

said Frederick Kuhne, his heirs and assigns, may reclaim and appropriate to their own use the said lands under water above described in manner aforesaid, subject, however, to the regulations and provisions of the various clauses of said supplemental act herein recited.

In witness whereof the said commissioners appointed under said supplemental act have respectively set their hands and seals and caused the great seal of the State to be affixed and these presents have been signed by the Honorable Joel Parker, our Governer, and attested by the Honorable Robert Gilchrist, our attorney general, as by the provisions of said supplemental act is required.

Done and dated at Trenton this ninth day of November, in the year of our Lord one thousand eight hundred and seventy-two.

[Seal of the State of New Jersey.]

JOEL PARKER, *Gov'r.* [L. S.]
FRANCIS S. LATHROP, [L. S.]
CHAS. S. OLDEN, [L. S.]
PETER VREDENBURGH, [L. S.]
BENNINGTON F. RANDOLPH, [L. S.]
Commissioners.

Witness to signatures of commissioners:
ROB. C. BACOT.

Attested: HENRY C. KELSEY,
Secretary of State.

125 Signed, sealed, and delivered in the presence of—the words "and to any other bulkhead and pier line," 14th line, page 11, first interlined.

Attest: ROB. GILCHRIST,
Att'y General.

STATE OF NEW JERSEY, }
Hudson County, } *ss:*

Be it remembered that on this fifteenth day of November, A. D. one thousand eight hundred and seventy-two, before me, Thomas W. James, one of the masters in chancery of New Jersey, personally appeared Robert C. Bacot, who, being duly sworn, on his oath deposeth and saith that he saw the within-named Francis S. Lathrop, Charles S. Olden, Peter Vredenburgh, and Bennington F. Randolph, commissioners, sign their names, respectively, to the within instrument; that he knows them to be riparian commissioners under the laws of the State of New Jersey, and the said commissioners did severally acknowledge that they signed the foregoing instrument for and on behalf of the State of New Jersey, as their act and deed for the uses and purposes therein expressed, he, this deponent, subscribing his name thereto at the same time as an attesting witness.

ROB. C. BACOT.

Sworn and subscribed before me the day and year above named.

THOMAS W. JAMES,
Master in Chancery of New Jersey.

Received in the office and recorded November 29, 1872, at 4.25 o'clock p. m.

126 EXHIBIT D 6.

An act to enable the united companies to improve lands under water at Kill Von Kull and other places. (Chapter 386, Laws 1869, p. 1026.)

Whereas the United Delaware and Raritan Canal Company, the Camden and Amboy Railroad and Transportation Company, and the New Jersey Railroad and Transportation Company have recently secured to this State the payment of five hundred thousand dollars for the grant of lands under water in front of lands owned by them, and are desirous of having the right and privilege of erecting and making wharves, piers, and other improvements in front of other lands now owned by or in trust for them, so that they may safely make such improvements as they may find necessary to facilitate their business: Therefore

1. Be it enacted by the senate and general assembly of the State of New Jersey, That the said united companies shall be, and they are hereby, authorized to reclaim and erect wharves and other improvements in front of any lands now owned by or in trust for them or either of them, or by any company in which they now hold the controlling interest, adjoining Kill Von Kull or any other tidewaters of the State, and when so reclaimed and improved to have, hold, and possess and enjoy the same as owners thereof: Provided, That such improvements shall be subject to the regulations (where applicable) as to the line of solid filling and as to pier lines heretofore recommended in the report of the commissioners made and filed under the act entitled "An act to ascertain the rights of 127 the State and of riparian owners in the lands lying under the waters of the Bay of New York and elsewhere in this State," approved April eleventh, eighteen hundred and sixty-four, but neither said improvements nor those which may be made by said companies in Harsimus cove shall be subject to any other restrictions than those contained in said report: And provided further, That the said united companies shall, on or before the first day of July next, pay to the treasurer of this State the further sum of twenty thousand dollars in full satisfaction for the right and privilege hereby granted: And provided further, The said united companies shall, on or before the said first of July, file in the office of the secretary of state a map and description of the lands under water in front of the upland referred to in this section.

2. And be it enacted, That this act shall take effect immediately.

Approved March 31, 1869.

EXHIBIT D 7.

The State of New Jersey to the Hoboken Land and Improvement Company. Deed dated May 11th, 1872. Recorded in Book 245 of Deeds, page 40, &c.

To all to whom these presents shall come or who shall be concerned the State of New Jersey sendeth greeting:

Whereas under and by virtue of a certain act of the Legislature of the State of New Jersey, approved April 11, 1864, entitled "An act to ascertain the rights of the State and of the riparian owners
128 in the lands lying under the waters of the Bay of New York
and elsewhere, in the State," certain persons were duly appointed and constituted commissioners to execute and discharge the duties in said act set forth and upon them imposed, and, among other things, to fix and establish an exterior line in certain bays and rivers in said act mentioned, beyond which no pier or permanent obstruction of any kind should be permitted to be made;

And whereas afterwards, said commissioners having fixed such exterior line in the tide water of certain of said waters, bays, and rivers, to wit, the Hudson river, New York Bay, and Kill Von Kull, lying between Enyard's dock in the Kill Von Kull in the New York State line, the same were by another act of the Legislature, approved March 31, 1869, supplementary to said first-mentioned act, adopted and declared to be fixed and established as the exterior bulkhead and pier lines between the points above named, as by the first section of said last-mentioned act will more fully appear;

And whereas by the sixth section of said supplemental act it was enacted that four commissioners should be appointed by the Governor, with the advice and consent of the senate, to complete as much of the details of the work assigned to them by such original act, by surveys and otherwise on the Hudson river, New York Bay, and Kill Von Kull, as in their judgment the interests of the State required, which commissioners were afterwards so appointed, to wit,
Francis S. Lathrop, Peter Vredenburgh, Charles S. Olden, and
129 Bennington F. Randolph;

And whereas by the third section of said supplementary act it was enacted, among other things, that neither that section nor any provision in said supplementary act contained should in anywise repeal or impair any grant of land under water or right to reclaim made directly by legislative act or grant or license, power, or authority, so made or given to purchase, fill up, occupy, possess, and enjoy lands covered with water, fronting and adjoining lands owned or authorized to be owned by the corporation or grantee or licensee in the legislative act mentioned, its, his, or their representatives, grantees, or assigns, or to repeal or impair any grant or license, power or authority, to erect or build docks, wharves, and piers opposite and adjoining lands owned or authorized to be owned by the corporation, grantee, or licensee in the legislative act mentioned, its, his, or their representatives, grantees, or assigns, heretofore made or given directly by legislative act, whether said acts are or are not repealable;

And whereas by the fourth section of said legislative act it was enacted, among other things, that in case any person or corporation who, by any legislative act, was a grantee or licensee, or had such power or authority, or any of his, her, or their representatives or assigns, should desire a paper capable of being acknowledged and recorded, made by and in the name of the State of New Jersey, conveying the land in the proviso to the third section of said supplementary act mentioned, whether under water now or not, and the benefit of an express covenant that the State would not make
130 or give any grant or license, power or authority, affecting lands under water in front of said lands, then, and in either of such cases, such person or corporation, grantee or licensee, having such grant or license, power or authority, his or their representatives or assigns, on producing a duly certified copy of such legislative act to said commissioners, and in case of a representative or assignee also satisfactory evidence of his, her, or their being such representative or assignee, and requesting such grant and benefits as in that section mentioned, should be entitled to said paper so capable of being acknowledged and recorded, and granting the title and benefits aforesaid, on payment of the consideration therein mentioned, and the said commissioners, or any two of them, with the Governor and attorney-general for the time being, to be shown by the Governor signing the grant and the attorney general attesting it, should and might execute and deliver and acknowledge, in the name and on behalf of the State, a lease in perpetuity to such grantee or licensee or corporation having such grant, license, power, or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, upon his, her, or their securing to be paid to the State an annual rental of three dollars for each and every lineal foot measuring on the bulkhead line, or a conveyance to such grantee or licensee or corporation having such grant, license, power, or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, in fee, upon his, her, or their paying to
131 the State fifty dollars for each and every lineal foot measuring on the bulkhead line in front of the land included in such conveyance;

And whereas the Hoboken Land and Improvement Company, a corporation existing by and under an act of the Legislature of the State of New Jersey, passed the twenty-first day of February, one thousand eight hundred and thirty-eight, entitled "An act to incorporate the Hoboken Land and Improvement Company," were, among other things, authorized to purchase, hold, and improve real and personal property in this State, provided they should not hold more than one thousand acres of land at any one time, and were also authorized and empowered to purchase, fill up, occupy, possess, and enjoy all lands covered with water fronting and adjoining the lands that might be owned by them, and to construct thereon wharves, harbours, piers, and slips, and all other structures requisite or proper for commercial and shipping purposes, as in and by said act, reference being thereunto had, may more fully and at large appear;

And whereas the said The Hoboken Land and Improvement Company, on or about the sixth day of May, one thousand eight hundred and thirty-nine, did purchase from Edwin A. Stevens and others, the children of John Stevens, then lately deceased, and from his widow, in fee simple, certain lands in the now city of Hoboken adjoining the Hudson river, and other lands in Hudson county, including, amongst others, the lands and premises hereinafter described, which land and premises the said company doth still
132 possess and occupy and own, and are described as follows—
that is to say:

Beginning at a point which would be on the easterly line of River street if the said street were continued southerly in a straight line, which beginning point is fifty feet northerly from the northerly line of Second street continued eastwardly and two hundred and seventy feet from and at right angles with the easterly line of Hudson street, and running from thence eastwardly and parallel with Second street to the bulkhead line as laid down on said commissioner's map, and from thence running northerly along the said bulkhead line forty-five feet, more or less, to the southerly line of the grant heretofore made by the State of New Jersey under the authority of the acts aforesaid to the Hoboken Land and Improvement Company, which grant bears date December twenty-first, eighteen hundred and sixty-nine, and which was recorded in the clerk's office of the county of Hudson on the sixth day of June, eighteen hundred and seventy, in Book 210 of Deeds for that county, pages 696, &c., to which reference is made; from thence running westerly along the southerly line of the said grant to the easterly line of River street extended, and from thence running southerly along the said easterly line of River street so extended forty-five feet, more or less, to the place of beginning, said tract being composed of land bounded eastwardly upon and along Hudson river and lands under the waters of said river in front of the land bounded eastwardly upon and along
Hudson river as last aforesaid, as in and by the said deed of
133 conveyance from Edwin A. Stevens and others will more
fully appear, the said deed being recorded in the clerk's office of Bergen county in Liber A 4 of Deeds, pages 287 to 312;

And whereas the said The Hoboken Land and Improvement Company, being so seized and possessed as aforesaid of the said tract of land adjoining the Hudson river as aforesaid, hath produced to said commissioners a duly certified copy of said legislative act incorporating said corporation, passed February 21, 1838, and hath made application in writing requesting such grant and benefits as in the fourth section of said supplementary act is mentioned, and agreeing to pay therefor the consideration mentioned in the said fourth section of said supplemental act;

And whereas it appears to the said commissioners that the said The Hoboken Land and Improvement Company hath by their charter such grant and license, power and authority, as in the said fourth section is mentioned, and are entitled to said paper capable of being acknowledged and recorded and granting the title and benefits aforesaid upon payment of such consideration as aforesaid;

And whereas such consideration, to wit, the sum of two thousand two hundred and fifty dollars, being fifty dollars for each lineal foot, measuring on the bulkhead line in front of the land included in this conveyance, has been paid by the said The Hoboken Land and Improvement Company to the treasurer of said State:

Now, therefore, know ye that the said The State of New Jersey,
by said commissioners, with the said Governor and attorney
134 general for the time being, in consideration of said sum of
two thousand two hundred and fifty dollars to the treasurer
of the State for the said State duly paid, hath granted, conveyed, and confirmed, and doth by these presents grant, convey, and confirm, unto the said The Hoboken Land and Improvement Company so much of the lands and premises above described as may have been originally below the line of high-water mark and all lands under water in front of the land above described and extending therefrom to the exterior bulkhead and pier lines in the Hudson river recommended by the commissioners appointed under the act aforesaid, approved April 11, 1864, adopted and established in and by the said supplemental act, and bounded northerly and southerly by parallel lines projected in direct continuation of the northerly and southerly boundary lines of said lands above described, on a course parallel with the lines of Third street as aforesaid, which said lands above described and lands under water in front thereof, taken together, are described as follows:

All and singular the lands and premises hereinafter particularly described, situate, lying, and being in the city of Hoboken, in the county of Hudson and State of New Jersey—that is to say, all lands now or formerly under water in Hudson river below the present or any former line of high-water mark, which are comprised within the following metes and bounds—that is to say: Beginning at a point which would be on the easterly line of River street, if the said
street were continued southerly in a straight line, which
135 beginning point is fifty feet northerly from the northerly line
of Second street continued eastwardly, and two hundred and
seventy feet from and at right angles with the easterly line of Hudson street, and running from thence eastwardly and parallel with Second street to the bulkhead line as laid down on said commissioners' map, and from thence running northerly along the said bulkhead line forty-five feet, more or less, to the southerly line of the grant heretofore made by the State of New Jersey under the authority of the acts aforesaid to the Hoboken Land and Improvement Company, which grant bears date December twenty-first, eighteen hundred and sixty-nine, and which was recorded in the clerk's office of the county of Hudson on the sixth day of June, eighteen hundred and seventy, in Book 210 of Deeds for that county, pages 696, &c.: from thence running westerly along the southerly line of the said grant to the easterly line of River street extended, and from thence running southerly along the said easterly line of

River street extended forty-five feet, more or less, to the place of beginning, said tract being composed of land bounded easterly upon and along Hudson river and lands under the waters of said river in front of the land bounded eastwardly upon and along Hudson river as last aforesaid, as in and by the said deed of conveyance from Edwin A. Stevens and others, the same being recorded in the clerk's office of Bergen county in Liber A 4 of Deeds, pages 287 to 312; and also all the land under water lying between
136 the above-mentioned exterior line for solid filling and the exterior line for piers as fixed by the said commissioners appointed under the said act, approved April 11, 1864, and shown on the sectional map aforesaid and bounded by the northerly and southerly lines of the above-described tract produced eastwardly into the Hudson river, provided always that said land under water between the said exterior line for solid filling and the said exterior line for piers is to be used only for the purposes of a pier or piers constructed or to be constructed therein, and likewise any and all lands under water lying in front of that above described and bounded by the northerly and southerly lines thereof to any points to which the said line for solid filling and exterior line for piers, respectively, may hereafter be legally extended, the same to be used for solid filling and piers, respectively, agreeably to the terms of said extension:

To have and to hold the lands above described, with the appurtenances and especially the right to fill up, reclaim, and improve the said lands under water and to erect wharves and piers thereon out to the said exterior bulkhead and pier lines, and to any other bulkhead and pier lines further out in said river which may hereafter be established by legislative authority, unto the said The Hoboken Land and Improvement Company, their successors and assigns, forever.

And the said State of New Jersey doth further hereby covenant expressly with the said The Hoboken Land and Improve-
137 ment Company, their successors and assigns, that the said State of New Jersey will not make or give any grant or license, power or authority, affecting lands under water in front of said lands hereby conveyed, and that the said The Hoboken Land and Improvement Company, their successors and assigns, may reclaim and appropriate to their own use the said lands under water above described; subject, however, to the regulations and provisions of the various clauses of said supplemental act herein recited.

In witness whereof the said commissioners, appointed under said supplemental act, have respectively set their hands (and seals) and caused the great seal of the State to be affixed, and these presents have been signed by the Honorable Joel Parker, our Governor, and attested by the Honorable Robert Gilchrist, our attorney general, as by the provisions of said supplemental act is required.

Done and dated at Trenton this eleventh day of May, in the year of our Lord one thousand eight hundred and seventy-two.

FRANCIS S. LATHROP.
PETER VREDENBURGH.
CHAS. S. OLDEN.
BENNINGTON F. RANDOLPH.
JOEL PARKER, *Gov.*
ROBT. GILCHRIST, *Att'y Gen'l.*

[Seal of the State of New Jersey.]

Attest: HENRY C. KELSEY,
Sec'y of State.

138 Signed, sealed, and delivered in presence of (the words "and seals," on the 7th line of last page, erased before execution)—

ROB'T C. BACOT,
As to Signatures of Francis S. Lathrop, Peter Vredenburgh, Chas. S. Olden, and Bennington F. Randolph.

STATE OF NEW JERSEY, } *ss:*
Hudson County, }

Be it remembered that on this twenty-seventh day of June, A. D. one thousand eight hundred and seventy-two, before me, Wm. A. Macy, a commissioner of deeds in and for said county and State, personally appeared Robert C. Bacot, who, being duly sworn, on his oath deposeth and saith that he saw the within named Francis S. Lathrop, Peter Vreedenburgh, Charles S. Olden, and Bennington F. Randolph sign their names, respectively, to the within instrument; that he knows them to be the riparian commissioners under the laws of the State of New Jersey, and the said commissioners did severally acknowledge that they signed the foregoing instrument for and on behalf of the State of New Jersey as their act and deed for the uses and purposes therein expressed, he, this deponent, subscribing his name thereto as an attesting witness.

ROB'T C. BACOT.

Sworn and subscribed before me the day and year above written.

WM. A. MACY,
Commissioner of Deeds.

139 EXHIBIT D 8.

The State of New Jersey, by commissioners, &c., to the Morris & Essex R. R. Co. Lease. Dated April 28, 1874.

This indenture, made the twenty-eighth day of April, in the year eighteen hundred and seventy-four, between the State of New Jersey, by its commissioners appointed by the Governor of said State, by and with the advice and consent of the senate thereof, under and by virtue of an act of the Legislature of said State, approved March 31st, 1869, entitled a supplement to an act entitled "An act to ascertain the rights of the State and of riparian owners in the lands lying under the waters of the Bay of New York and elsewhere in the State, approved April 11, 1864"—that is to say, by Francis S. Lathrop, Charles S. Olden, Bennington F. Randolph, and Thomas McKeen and the Governor of said State, to wit, Joel Parker, party of the first part, and the Morris & Essex Railroad Company, a body corporate of the State of New Jersey, party of the second part:

Whereas, by an act of the Legislature of the State of New Jersey, approved April 6th, 1871, entitled "An act relative to the riparian commissioners," it was, among other things, enacted that the said commissioners, with the concurrence of the Governor and the attorney general, in all cases of application for grants or leases of land which were not then or should not at *any* time of the application or at the time of the lease or grant be under tide-water, and in all cases of application for grants or leases for all or any of such lands, might, notwithstanding the first proviso of the 4th section of said
140 supplement, approved March 31, 1869, or any other clause or matter in said supplement contained, grant or lease, or lease first with a covenant to grant and grant afterward, for such principal sum that the interest thereof at seven per centum will produce the rental, such lands, or any part thereof, lying between what was at any time heretofore the original high-water line and the exterior lines established or to be established, and grant or lease, in all cases in which in their discretion they shall think such grant or lease should be made, such rights, privileges, and franchises as they are authorized to grant in cases directly with said 4th section of said supplement approved March 31, 1869, and enter into the same covenants in the name of the State in all cases of grants or leases, where they deem such covenants proper, as are authorized in grants or leases under said 4th section of said supplement approved Mar. 31, 1869, and insert such other covenants, clauses, and conditions in said grants or leases as they shall think proper to require from the grantee or lessee or ought to be made by the State, provided that nothing in said act, approved April 6th, 1871, contained, should authorize grants or leases in front of a riparian owner to any other than such riparian owner, except on the proceedings and conditions in said supplement, approved Mar. 31, 1869, provided; and provided also, that the application for grants and leases and the certificate of said commissioners, Governor, and attorney general may, in the cases thereby provided for, vary from the provisions of the said supplement in such manner as to conform to that act;

141 And whereas by an act passed March 27, 1874, entitled a further supplement to an act entitled "An act to ascertain the rights of the State and of the riparian owners in the lands lying under the waters of the Bay of New York and elsewhere in the State," approved April 11th, 1864, it was, among other things, enacted that it shall be lawful for the riparian commissioners, or any three of them therein concurring, together with the Governor of this State, to fix and determine within the limits prescribed by the law the price or purchase-money or annual rental to be paid by any applicant for so much of lands below high-water mark or lands formerly under tide-water belonging to this State as may be described in any

application thereof duly made according to law; and the said commissioners, or any three of them therein acting and concurring, together with the Governor, shall, in the name and under the great seal of the State, grant or lease said lands to such applicant accordingly, and all such conveyances or leases shall be prepared by the said commissioners or their agents at the cost and expense of the grantee or lessee therein, and shall be subscribed by the Governor and at least three of said commissioners and attested by the secretary of state, and enacting that all acts and parts of acts inconsistent with the provisions of said last-mentioned act be, and the same were thereby, repealed and the said last-mentioned act should take effect immediately;

142 And whereas the said party of the second part was heretofore and is now seized in fee simple of all that tract of land which adjoins but was above the original high-water mark of the tidal waters of Hudson river, beginning at the centre of North 7th street, in Jersey City, at the original line of high-water mark, thence running along the said line of high-water mark, as the same originally ran, northerly to a point where the said line intersects or would have intersected the north line of the most northerly tract of land in Hoboken south of Ferry street, heretofore conveyed or agreed to be conveyed by the Hoboken Land and Improvement Co. to the Morris & Essex R. R. Co.; thence westerly from the point last stated a considerable distance inland, and running also westerly from the point of beginning a considerable distance inland, and so where (?) riparian owners within the said supplemental act and the act approved April 6th, 1871, entitled An act relative to the riparian commissioners and the Hoboken Land and Improvement Company, riparian owners to the north, and the Jersey Shore Improvement Company, riparian owners to the south, have, by conveyances extinguished or passed to the said party of the second part all claim to any grant or lease from the State of the lands hereinafter leased, subject as to a part to certain exceptions and provisions hereinafter referred to;

143 And whereas the said party of the second part hath heretofore demised, leased, and let unto the Delaware, Lackawanna and Western Railroad Company, a corporation recognized by the laws of the State of New Jersey, for a term or terms not yet ended, the lands hereby conveyed and the said adjoining lands, whereby the said last-mentioned railroad company is in possession of said land adjoining high-water mark, and are the tenants of the riparian owners thereof under and in pursuance of the lease from the said The Morris and Essex Railroad Company to the said The Delaware, Lackawanna and Western Railroad Company, and the said party of the second part is riparian owner thereof subject to the last-mentioned lease; and the said party of the second part and the said The Del., Lack. & Western R. R. Co. have, in due form of law and as prescribed in the said supplement approved March 31, 1869, as amended by the said act entitled "An act relative to the riparian commission," approved April 6th, 1871, made application in writing to the said commissioners, Governor, and attorney general, setting

forth their desire to obtain a lease to the party of the second part in perpetuity of the lands, whether under tide-water or not, which lie between said north and south lines and in front of the lands above described, from said original line of high-water mark to the exterior lines established or to be established, and requesting the said commissioners and Governor to designate what lands, whether under water or not, lie between the original high-water mark and the exterior lines, and to fix the annual rent to be paid for such lease and also the amount to be paid for a conveyance in fee simple to the party of the second part;

And whereas the said commissioners and Governor have under their hands designated the land hereinafter leased in perpetuity as tracts of land for which such lease was desired, some of which were heretofore, but are not now, under tide-water, and some of 144 which are now under tide-water, but all of which lie between the original lines of high-water mark aforesaid and the exterior lines fixed and established in and by said supplemental act, and for which this lease may properly be made under said acts, and have fixed the sum of $5,383 as the annual rental for said lands hereby leased and the sum of $76,900 as the price or compensation to be paid to extinguish said rent, and certified the boundaries and the price and compensation and amount of rental aforesaid to be paid for the same;

And whereas the amount of said annual rental is hereby secured to be paid to the treasurer of said State; and whereas the adjacent riparian owners have extinguished their right to or conveyed to the said party of the second part all claims to the lands hereinafter leased, subject and except, so far (?) as the part of the land lying between the exterior line for solid filling and the exterior lines for piers is concerned, as in a certain deed and agreement from the Hoboken L. & L. Co. is mentioned and hereinafter referred to, and the said lands hereby released therefor lie in front of no other riparian owner within the meaning of said act;

And whereas, under the circumstances hereinbefore recited, the lease hereby made is authorized to be made in and by the said supplement approved March 31, 1869, as amended by the said act, An act relative to the riparian commissioners, approved April 6th, 1871, and the said act passed March 27th, 1874;

And whereas the said commissioners and Governor think that this lease should be made with the covenants, conditions, and 145 grants herein contained and the same are in such case authorized to be contained in and by virtue of said statute last stated:

Now, therefore, in consideration of the premises and of one dollar paid to the said State by the said The Morris & Essex R. R. Co., and of the rents, covenants, and conditions on their part and that of their successors to be paid, kept, and performed, the said party of the first part doth hereby grant, bargain, sell, convey, and let unto the said parties of the second part, their successors and assigns, forever, to hold as hereinafter expressed, all that tract of land abutted and bounded as follows:

Beginning at the centre of North 7th street, in Jersey City, at the original line of high-water mark; thence running along said line of high-water mark as the same originally ran northerly to a point where the said line intersected or would have intersected the north line of the most northerly tract of land in Hoboken, south of Ferry street, heretofore conveyed or agreed to be conveyed by the Hoboken L. & L. Co. to the Morris & Essex R. R. Co.; thence easterly from the point of intersection last stated in a straight line parallel with Ferry street to a point where the easterly line of Garden street produced across and beyond Ferry St. southerly will intersect the same; thence northerly along such produced line of Garden St. to the southerly line of Ferry St.; thence along the southerly line of Ferry street south 68 degrees 41 min. E. to the easterly line of Hudson St. produced southerly to the southerly line of Ferry St.;
146 thence 84 deg. 57½ min. E. 720 feet 6 in. to the exterior line
for solid filling, as shown on sectional map No. 6, made by the commissioners appointed under the act entitled An act to ascertain the rights of the State and the riparian owners in the land lying under the waters of the Bay of New York and elsewhere in the State, approved April 11, 1864; thence south 25 deg. 47 min. W. 1,538 feet to a point where the centre line of North 7th St. if produced easterly to the said exterior line for solid filling would intersect the same; thence along such centre line of North 7th St. north 74 deg. 56 min. W. to the original high-water mark, the point of beginning.

And also the right, liberty, privileges, and franchises to exclude the tide-water from so much of the land above leased as lies easterly of the original line of high-water mark, and now or hereafter under the tide-water, by filling in or otherwise improving the same, and to appropriate the same to their exclusive use.

And also all and singular the land under water and the piers and other structures now existing between the above-mentioned exterior lines for solid filling and the exterior line for piers, as fixed by the said commissioners last mentioned, and bounded as follows: Beginning on the exterior line for solid filling at the beginning point of the last course in the tract first described, and running thence south 71 deg. 25 min. E. 540 feet to the exterior line for piers as fixed by said last-mentioned commissioners; thence along said exterior line for piers north 22 deg. 34 M. E. 1,513 feet; thence north 70 deg. 25 M. W. 450—to the exterior line for solid fill-
147 ing; thence along the exterior line for solid filling south 25
deg. 57. M. W. 1,538 feet to the place of beginning.

And also the right, liberty, privilege, and franchise of building piers alone on the land last mentioned—that is to say, that which lies between the exterior lines already fixed above mentioned and said north and south lines of said tract last described, excepted and provided as is excepted and provided in any contract, agreement, or conveyance between the Hoboken L. & I. Co. and the Morris & Essex R. R. Co., in the same manner as if the exceptions and provision aforesaid were herein inserted, and to which reference is hereby made, and if and when said exterior lines shall be fixed at

any other points or places further out into the said river; also any and all land lying between the present exterior lines for solid filling above described and said new exterior line for lines for solid filling, bounded, however, north and south by the north and south lines above mentioned extended to the new line or lines for solid filling, with the right, liberty, privilege, and franchise of excluding from so much of the land lying between the present line for solid filling and the new exterior line or lines for solid filling and the northerly and southerly lines before mentioned, the tide-water, by filling in or otherwise improving the same, and to appropriate the land last described to their own exclusive private use; and if and when the said exterior lines shall be fixed at any other points or places further out in the said river, also any land lying between the new exterior line or lines for solid filling and the new pier line
148 or lines, with the right, liberty, privilege, and franchise of building piers alone upon the land last mentioned, together, also with the right, so far as the upland from the time made shall adjoin the navigable water, to the perquisites of wharfage and other like profits, tolls, and charges, to take, to have, to use, exercise, and enjoy and to hold the said lands and premises, and all the rights, liberties, privileges, and franchises and perquisites aforesaid exercisable in and over and with reference to the same, to and for the said said several uses, interests, and purposes, and in the manner that they are above conveyed to the said The Morris & Essex R. R. Co., their successors and assigns, forever, subject to the rents and covenants and conditions hereinafter reserved and made, and subject to the regulations imposed by law on the exercise of the said rights or property hereby granted and to such as shall hereafter lawfully be made, the said party of the second part yielding and paying therefor yearly during the continuance of the leasehold estate hereby granted to the said party of the second part in the lands and other property hereby granted, unto the State of New Jersey the sum of $5,383, lawful money of the U. S., without any deduction or abatement whatsoever, by equal half-yearly payments on the first days of July and January in each year, the first payment thereof to be made on the first day of July now next ensuing.

And the said party of the second part doth hereby, for itself, its successors and assigns, covenant and agree to and with the said party of the first part, its successors and assigns, — shall and will from
149 time to time, and at all times during the estate hereby granted to it, well and truly pay or cause to be paid to the State of New Jersey the yearly rent of $5,383, hereinbefore reserved, upon the several days and times hereinbefore reserved to be paid by the party of the second part, its successors and assigns.

And that if it shall happen that the said yearly rent or any part thereof shall at any time hereafter be behind and unpaid by the space of sixty days next after the same shall become due it shall be lawful, without demand for such rent in arrears, for the said party of the first part, by its officers and agents or otherwise, into the said tract of land and every part thereof to enter and distrain all things on said premises belonging to the said party of the second part or to the said The Del., Lack. & West. R. R. Co. for said annual rent or such part thereof as shall be behind and unpaid, and the distress or distresses there found to take and convey away and detain and keep or otherwise dispose of according to law until said rent and all arrears thereof and the costs and charges occasioned by the non-payment at the time in that behalf above mentioned shall be fully paid and satisfied.

And also that in such case it shall be lawful for the said party of the first part, by its officers or agents or otherwise, into the said tracts of land hereby leased to re-enter the same, and every part thereof to have, possess, and enjoy.

And the said The Del., Lack. & West. R. R. Co., by sealing these
presents with its common seal, doth hereby covenant and
150 agree to this indenture and the terms and provisions thereof,
and in consideration of the premises aforesaid and of one dollar to it paid by the said party of the first part doth covenant and agree with the said party of the first part, as surety for the said party of the second part, that so long as the said The Del., Lac. & West. R. R. shall possess, use, or hold the lands, rights, and privileges hereby granted they, the said The Del., Lack. & West. R. R. Co., will pay to the said party of the first part the yearly rent aforesaid at the times and in the manner aforesaid if the said party of the second part shall fail to pay the same or any part thereof in manner aforesaid and that without demand of payment of said rent being first made upon the party of the second part by or for the party of the first part.

And the said the State of New Jersey doth hereby expressly covenant and agree that a conveyance to the party of the second part or its successors or assigns, as it shall direct, in fee simple shall be made by the State of New Jersey of and for all or any part of the said lands and benefits hereby granted free and discharged of the whole or of an equitable portion of the said rent on their paying to the said State the sum of $76,900 or an equitable portion of that sum, according to the quantity and value of the land desired to be discharged from the said rent or a portion thereof.

And the said State also covenants to and with the said party of
the second part, their successors and assigns, that the said
151 State will not make or give any grant or license, power or
authority, to any other person or corporation affecting lands under water in front of said lands hereby leased.

In witness whereof the said commissioners have respectively set their hands and caused the great seal of the State to be fixed hereto, and these presents have been signed by Joel Parker, Governor, and attested by Henry C. Kelsey, sec'y of state; and the said The Del., Lack. & West. R. R. and the said The Morris & Essex R. R. Co. have caused these presents to be signed by their presidents, respectively, and their corporate seals to be respectively affixed the day and year first above written.

JOEL PARKER.
FRANCIS S. LATHROP.
[G. S. OF N. J.] CHAS. S. OLDEN.
BENNINGTON F. RANDOLPH.
THOS. McKEEN.

Attest: HENRY C. KELSEY,
Sec'y of State.

Witness to signatures of commissioners:
ROB'T C. BACOT.

THE MORRIS & ESSEX R. R. CO.,
[L. S.] By SAM'L SLOAN, *Pres.*

Attest: FRED. F. CHAMBERS, *Sec'y.*

THE DEL., LACK. & WEST. R. R. CO.,
[L. S.] By SAM'L SLOAN, *Pres.*

Attest: FRED. S. CHAMBERS, *Sec'y.*

State of New Jersey, *ss:*

152 Be it remembered that on this fourth day of May, 1874, before me, the subscriber, an M. C. C. of New Jersey, personally appeared Rob't C. Bacot, who, being by me duly sworn, on his oath saith that he saw Francis S. Lathrop, Charles S. Olden, Bennington F. Randolph, and Thos. McKeen, the within-named commissioners, sign, seal, and deliver the within lease as their voluntary act; that the said Rob't C. Bacot thereupon subscribed his name as an attesting witness.

ROBERT C. BACOT.

Sworn and subscribed before me—
JAMES B. VREDENBURGH,
M. C. C. of N. J.

Received in reg's office and recorded May 2, 1876, at 3.45 p. m., on page 646 of Liber 296 of Deeds.

Exhibit D 9.

Map filed under said act, Exhibit D 6.

Exhibit D 10.

Maps showing grants and lease to the Morris & Essex Railroad Company.

Exhibit D 11.

Map made by Speilman & Brush, Oct. 22, 1878.

Exhibit D 12.

Map of J. C. Payne, August, 1878, of water front, showing grants made by act of Legislature and by riparian commissioners.

Exhibit D 13.

Part of Douglass map copied by Frank H. Earle.

153 United States Circuit Court, District of New Jersey.

THE MAYOR AND COUNCIL OF HOBOKEN
vs.
PENNSYLVANIA RAILROAD COMPANY.

Ejectment. Second street.

THE MAYOR AND COUNCIL OF HOBOKEN
vs.
PENNSYLVANIA RAILROAD COMPANY.

Ejectment. River street.

Examination of witnesses had before me, Charles Meyer, Jr., U. S. commissioner, at my office, No. 93 Washington street, in the city of Hoboken, on the thirtieth day of November, A. D. 1881, in the presence of Malcolm W. Niven, Esq., attorney for the plaintiffs, James B. Vredenburgh, Esq., counsel for the Pennsylvania Railroad Company, Hon. Leon Abbett, counsel for other defendants.

Defendant offers in evidence a certified copy of a lease from the Camden and Amboy Railroad and Transportation Company and others to the Pennsylvania Railroad Company, bearing date June 30th, 1871, and also the Laws of 1873, page 1298, confirming said lease.

JOHN C. PAYNE, a witness produced on the part of the defendant, The Pennsylvania Railroad Company, being duly sworn, deposes and says:

I am a civil engineer and surveyor, doing business in Jersey City; have been such ten or twelve years, and as such have made
154 maps of various parts of the county of Hudson; have made some of the maps of the riparian commissioners for some years; I make them for Mr. Bacot.

Witness, shown a map, says:

I made this map.

Map offered in evidence and marked Exhibit No. 14 on part of the defendants.

That part of the map tinted blue represents the space covered by water at the present time. The black dotted line further east, marked exterior line for piers, represents the riparian commissioners' exterior line for piers on the Hudson river accurately. The black dotted line further west, marked exterior line for solid filling, is the riparian commissioners' exterior line for filling. The portion of map colored brown represents the piled docks in that locality. The portion colored gray next to the water represents an engine-house connected with a derrick, and the larger portion represents a boiler-house and machine shop. The portion tinted red represents machine shops and shops for working of wood, offices, paint shops, I think, and buildings used in connection with the works there. I compiled this map, Exhibit D 14, the greater part, from actual survey; location of

docks, streets, and buildings, all from actual survey, except high-water line of 1804, which is taken from Loss' map, and the location of high water in 1864, which is as shown to me by Mr. Frank Stevens, superintendent of the works, and the high-water line of 1869, which I took from the map on file in Trenton, marked Exhibit D 9 in this cause, showing the grant of the State to the
155 United Delaware and Raritan Canal Company, Camden and Amboy Railroad and Transportation Company, and New Jersey Railroad and Transportation Company by act of March 31st, 1869, filed June 18th, 1869.

Q. Show the location of the grant (Exhibit D 9) upon the map, Exhibit D 14, made by you.

A. It lays between the most southerly dotted line on Exhibit D 14 and the next dotted line north, and extends from the original high-water line out into the Hudson river. The original high-water line in 1804 is so marked on this map by a black wavy line; it includes the land in question both in Second street and in River street in these ejectment suits against the Pennsylvania Railroad Company, and being the land in question. The distance between high-water mark of 1864 and high-water mark of 1869 is about eighteen feet. The rate of accretion is about three and — half feet per year. The distance between the high-water mark of 1869 and what is now is about thirty feet, and the rate of accretion for these twelve years is about two and a half feet per year. Second street, if continued easterly beyond present high-water mark, it would cut off of the dock a triangle of thirteen feet wide on west end, and running to nothing about 100 feet further east. The extension of River street further south from Second street would cut off the following improvements: It would completely cut out the brick building and part of another, as shown on this map. The brick buildings are shown in red on this map.

Cross-examined:

156 On Exhibit D 9 the grant by the State is included between the two red lines, one on the north and one on the south. That is not shown to any particular point either on the east or west, except on the east it is to the Hudson river and to the west indefinitely. The description attached to the map bounds it on the west by the original high-water line.

In 1869 the high-water line was about 30 feet west of present high-water line, about 18 feet east of high-water line of 1864, and about 350 feet east of the original high water line in 1804. The width of the inner end of pier, which I said would have 13 feet cut off, is about 25 feet. There is solid ground immediately south of the pier at that point.

The solid filling extends east of the west end of pier about 150 feet. I have been over the ground in person. I step from the solid ground to the pier from the same level. For nearly all the distance of 150 feet the pier is accessible from the solid ground. I do not know whether, if that triangle were cut off, there would be an ample access to the pier. I do not know what the needs of the case are.

Where I have left it in plain white color (on D 14) it shows there are no buildings, though I think there are arrangements for moulding iron floors and so on. Taking that part of the dock as far east as the solid filling goes, after cutting off the triangle, there would be three-quarters of that part of the dock left.

JOHN C. PAYNE.

157 Taken, sworn to, and subscribed before me this 30th day of November, A. D. 1881.

CHAS. MEYER, Jr.,
U. S. Com'r.

It is admitted by the counsel of the respective parties that on Loss' map the streets that run to the Hudson river are laid down to ordinary high-water line as it existed in 1804.

CHARLES MEYER, Jr.,
U. S. Commissioner.

United States Circuit Court, District of New Jersey.

The Mayor and Common Council of the City of Hoboken
vs.
The Pennsylvania R. R. Co.

In ejectment.

The Mayor and Common Council of the City of Hoboken
vs.
The Pennsylvania R. R. Co.

In ejectment.

Depositions taken, *de bene esse*, before William S. Belville, Esq., a commissioner of the United States circuit court, in the city of Trenton, on Tuesday, February 7th, 1882, at ten a. m.

Appearances: Malcolm W. Niven, for complainant, and James V. B. Vredenburgh, for defendant.

Joseph D. Hall, a witness produced on the part of the defendant, being duly sworn, testifies as follows:

158 Direct examination by Mr. Vredenburgh:

Q. What position do you occupy?
A. Assistant secretary of state.
Q. State of New Jersey?
A. Yes, sir.
Q. Have been such for how long?
A. Since, I think, 1873.
Q. You have been connected with the office how long?
A. Twenty-one years.
Q. Is there filed in this office any map by the united companies, under an act passed in 1869, embracing a portion of the water front in the city of Hoboken?

A. Yes, sir.

Q. When was it filed?

A. On the 18th of June, 1869.

Q. (Witness is shown a map.)

A. This is a map and description which was then filed. "It is a map and description of lands lying under the tide-waters of the Hudson river in the city of Hoboken, in the county of Hudson and State of New Jersey, granted to the United Delaware and Raritan Canal Company, Camden and Amboy Railroad and Transportation Company, and the New Jersey Railroad and Transportation Company by an act of the Legislature of the State of New Jersey approved March 31st, 1869."

This map is offered in evidence, and the copy already offered is marked D 9 in place of the original.

Not cross-examined.

J. D. HALL.

159 Sworn to before me, February 7, 1882, at Trenton, N. J.

W. S. BELVILLE,
U. S. Comm.

John P Lansing, a witness produced on the part of the defendant, being duly sworn, testifies as follows:

Direct examination by Mr. Vredenburgh:

Q. What position do you occupy?

A. Clerk in the treasury department.

Q. Of the State of New Jersey?

A. Yes, sir.

Q. Been so how long?

A. Twenty years.

Q. From your books can you tell us whether the united companies have paid to the State of New Jersey the $20,000 mentioned in an act entitled "An act to entitle the united companies to improve lands under water at the Kill Von Kull and other places," approved March 31st, 1869, or not?

A. I can.

Q. Have they?

A. They have.

Q. When did they pay it?

A. 25th of June, 1869; the check was received and deposited here on the 25th of June, 1869; the check was dated the 21st of June and was deposited on the 25th.

A. And it so appears upon the books of the treasurer of the State of New Jersey?

A. Yes, sir.

Not cross-examined.

JOHN P. LANSING.

Sworn to before me at Trenton, February 7, 1882.

W. S. BELVILLE,
U. S. Commissioner.

160 U. S. Circuit Court, District of New Jersey.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
THE PENNSYLVANIA RAILROAD COMPANY.
In ejectment.

And

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
THE PENNSYLVANIA RAILROAD COMPANY.

In ejectment.

Depositions taken before Charles K. Cannon, a master and examiner of the court of chancery of the State of New Jersey, in the above causes, at the city of Hoboken, this 23rd day of May, A. D. 1882, at 3 o'clock in the afternoon.

Present: Joseph D. Bedle, of counsel with the Pennsylvania Railroad Company; John C. Besson, of counsel for the City of Hoboken.

ANDREW REASONER, a witness produced on the part of the defendant, being sworn according to law, on his oath saith, being examined by Mr. BEDLE:

Q. Where do you reside?

161 A. Morristown, New Jersey.

Q. What position do you hold in the Delaware, Lackawanna and Western Railroad Company?

A. Superintendent of their leased line—the Morris and Essex.

Q. And have been such superintendent for how long?

A. Since '70.

Q. And your chief office is where?

A. Hoboken, New Jersey.

Q. Are you familiar with the piers and slips and buildings and other property of the Morris and Essex Railroad Company, under lease to the Delaware, Lackawanna and Western Railroad Company at the terminus at Hoboken?

A. Yes, sir.

Q. (Witness being shown Exhibit D 4, is asked:) Do you see on this map what is marked as Morris and Essex railroad depot?

A. Yes, sir.

Q. And westerly of that do you see two dark-colored blocks or spaces?

A. Yes, sir.

Q. And westerly of that do you also see what is marked Morris and Essex railroad?

A. Yes, sir; with two tracks.

Q. Do you also see what is marked as freight shed?

A. Yes, sir.

Q. Do you also see on this map what are marked as the extended lines of River street, if produced, to the Morris and Essex railroad property?

162 A. Yes, sir.

Q. (Witness being shown Exhibit D 10, is asked:) Do you see what is marked as Hudson street, where it strikes Ferry street, on this map?

A. Yes, sir.

Q. And to the east of that do you see the two dotted lines apparently indicating an extension of the street?

A. Yes, sir.

Q. Do you also see on this Exhibit D 10 what are marked as slips and piers within what is called the lease by the State of New Jersey to the Morris and Essex Railroad Company?

A. Yes, sir.

Q. Are you familiar with those piers?

A. Yes, sir.

Q. Do you see on this map the larger slip?

A. Yes, sir; that is a canal, as we call it.

Q. What is that used for?

A. For all kinds of vessels to go up in to load and unload, from a yawl-boat to the biggest steamer that floats.

Q. Is it used in connection with your railroad business?

A. Yes, sir.

Q. To the north of that canal or basin, how many railroad tracks have you—about?

A. To the north of that? That is in Hoboken.

Q. Yes; to the north of it?

A. There must be twenty-three tracks; I should say about twenty-three tracks.

Q. And to the south of the longest basin how many are there—about?

163 A. Probably about forty.

Q. What are the piers that are laid down on Exhibit D 10 used for, and the slips?

A. The first four are used for merchandise of all descriptions.

Q. The first four which way?

A. Going south, and the next one is for coal, and so on south for coal until we get further down to Jersey City; then it is for merchandise again.

Q. Are there railroad tracks upon the piers?

A. Yes, sir.

Q. Upon all of them?

A. All of them.

Q. How high are those piers above the surface of the sarrounding earth?

A. The earth and those first piers are about of a height; they average, I guess, about five feet above high water—the first four—and those others at the end, they run twenty-five at the end of the piers, and the rest of this street up as high as thirty-five and forty feet above high water.

Q. I call your attention to Exhibit D 11, already shown to you, and ask you what buildings of the railroad company the extended lines of River street would first strike?

A. It would first strike what we call the passenger sheds—that is, going south; then it would take off a corner of the freight-house and offices; that strikes as you go south, and then it would strike the coal piers all the way down.

164 Q. How many tracks are there in your passenger buildings there?

A. Four in the building and some to the south of it.

Q. Are those the main tracks in the building?

A. Yes, sir; where we let in and send out all of our trains.

Q. How many horse-car lines run down to the ferry through Ferry street?

A. I don't know how many different lines there are; think there are four distinct lines.

Q. Where do they run to?

A. To Jersey City, up the elevator, and down to the court-house, up Washington street and up to the elevator, and there they branch out to go to different points; I don't know but there are five different lines.

Q. About how many horse-cars run daily—leave the ferry daily?

A. I have no idea; I should suppose there was three hundred or more; they run very frequently.

(Mr. Besson objects to all the testimony on the ground that it is irrelevant to the issue.)

Being cross-examined by Mr. Besson:

Q. All your tracks, then, are south of Newark street a considerable distance?

A. Yes, sir.

By Mr. Bodle:

Q. And your tracks are also south of Ferry street?

A. Yes, sir.

Taken, sworn to, and subscribed this 23rd day of May, A. D. 1882, at Hoboken, N. J., before me—

—— ——.

It is consented by counsel that the signature of the witness to his testimony be waived.

165 United States Circuit Court, District of New Jersey.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. River street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. Second street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
HAMBURG-AMERICAN STEAM PACKET CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
NORTH GERMAN LLOYD STEAMSHIP CO.

Ejectment. Third street.

166 MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et als.*

Ejectment. First street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et als.*

Ejectment. Newark street.

We consent that the act incorporating the Hoboken Land and Improvement Company and all amendments and supplements, the riparian act (Revision Laws of New Jersey, page 980) and all amendments and supplements thereto, and all other acts of the Legislature of the State of New Jersey may be read in evidence at the trial of the above case.

LEON ABBETT,
Att'y, Certain Def'ts.
I. W. SCUDDER,
For SCUDDER & VREDENBURGH,
Att'ys for Penn. R. R. Co.
MALCOLM W. NIVEN,
Att'y for Pl't'ffs in all Suits.

167 The following sections are from the ordinance of the city of Hoboken approved January 9, 1858:

An ordinance relating to streets.

The mayor and council of the city of Hoboken do ordain as follows:

SECTION 1. That the several streets and public alleys in the city of Hoboken shall be known by the names mentioned and designated, respectively, on the map of Hoboken made by Charles Loss and filed in the clerk's office of the county of Bergen, except the street marked and named on said map "Philadelphia post road," which shall be hereafter known and called "Newark street," and that the public alley running between Washington and Hudson streets shall be called "Court street;" that the most southerly street now open and leading to the ferry and running east and west shall be known by the name of Ferry street.

SEC. 2. That River street shall extend and run from Third street on the south to Fourth street and from Fifth street to the stone wall of Edwin A. Stevens on the north until further opened by the owner or owners of the premises along the line thereof for public use, and shall not be less than sixty feet wide. No court-yard on either side of said street shall extend unto the same beyond the distance of thirteen feet (13.)

SEC. 3. That Hudson street shall extend and run from Ferry street, on the south to Seventh street on the north, as now laid out, and shall not be less than eighty feet wide at any point, and that no court-yard on either side thereof shall extend unto said
168 street beyond the distance of eighteen feet (18).

SEC. 4. That Washington street shall extend from Ferry street on the south to Seventh street on the north, as now laid out, and shall not be less than one hundred feet wide at any point, and that no court-yard on either side thereof shall extend into said street beyond the distance of fifteen feet (15).

SEC. 5. That Bloomfield street and Garden street shall each extend and run from Newark street on the south to Seventh street on the north, and shall each be not less than sixty-five feet wide at any point, and that no court-yard on either side of any of said two streets shall extend into the same beyond the distance of twelve feet in Bloomfield street and eleven feet six inches in Garden street.

SEC. 6. That Meadow street shall extend and run from Newark street on the south to Fourth street and from Fifth to Seventh street, and shall not be less than sixty-five feet wide at any point, and that no court-yard on either side thereof shall extend into the same beyond the distance of eleven feet and six inches.

SEC. 7. That Newark, First, and Second streets shall each run and extend from Hudson street to the line ditch which separates the lands of the Hoboken Land and Improvement Company from the meadow, and that Third, Fourth, Fifth, and Sixth streets shall each run and extend from River street to said ditch, and that Seventh street shall run and extend from Hudson street to said ditch; that each of the said streets mentioned in this section shall not be less at any point than fifty feet wide, and that no court-yard on either

169 side of any — said last-mentioned streets shall extend into the same beyond a distance of six feet and six inches.

SEC. 8. That Ferry street shall extend and run as now established and laid out until otherwise extended and dedicated to public use, and shall not be less *than* at any point where now laid out and established than one hundred feet wide, and that no court-yard on either side thereof shall extend into said street beyond the distance of fifteen (15) feet.

SEC. 9. That Court street shall run and extend from Newark street to Seventh street, and shall be not less at any point than twenty feet wide, and that no part or portion thereof shall be used or appropriated for court-yards or any other purpose whatever except for a public street or highway.

170 United States Circuit Court, District of New Jersey.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. River street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
PENNSYLVANIA R. R. CO.

Ejectment. Second street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
HAMBURG-AMERICAN STEAM PACKET CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
NORTH GERMAN LLOYD STEAMSHIP CO.

Ejectment. Third street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et als.*

Ejectment. First street.

MAYOR AND COUNCIL OF THE CITY OF HOBOKEN
vs.
ADOLPH E. SCHMIDT *et als.*

Ejectment. Newark street.

We consent that the act incorporating the Hoboken Land and Improvement Company and all amendments and supplements, the riparian act (Revision Laws of New Jersey, page 980) and all amendments and supplements thereto, and all other acts of the Legislature of the State of New Jersey may be read in evidence at the trial of the above case.

LEON ABBETT, *Att'y Certain Def'ts.*
I. W. SCUDDER,
FOR SCUDDER & VREDENBURGH,
Att'ys for Penn. R. R. Co.
MALCOLM W. NIVEN,
Att'y for Pl'ffs in All Suits.

171 STATE OF NEW JERSEY, *County of Hudson,* } *ss:*

United States Supreme Court.

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN, Plaintiffs in Error,

vs.

ADOLPH E. SCHMIDT, Defendant in Error.

In ejectment.

On error to the circuit court of the United States for the district of New Jersey.

John C. Crevier, of full age, being duly sworn according to law, upon his oath says that he is a resident and freeholder of the city of Hoboken; that he is a real estate agent in said city, and that he deals in real estate in said city; that he is acquainted with the value of lands lying in said city of Hoboken, and that he knows the tract of land in dispute in the above-entitled cause as described in the dedication, and that its value is over five thousand dollars.

JOHN C. CREVIER.

Sworn and subscribed before me this 10th day of October, A. D. 1884.

GEO. W. CASSEDY,
U. S. Commissioner.

[Endorsed:] United States Supreme Court. The Mayor and Council of the City of Hoboken, plaintiffs in error, *vs.* Adolph E. Schmidt, defendant in error. In ejectment. On error to the circuit court of the United States for the district of New Jersey. Affidavit.

172 United States Supreme Court, of the Term of October, in the year of our Lord one thousand eight hundred and eighty-four.

The Mayor and Council of the City of Hoboken, Plaintiffs in Error.

vs.

Adolph E. Schmidt, Defendant in Error.

In ejectment.

On error to the circuit court of the United States for the district of New Jersey.

Afterwards, to wit, on the thirteenth day of October, in the same term, before the Supreme Court of the United States, come the said The Mayor and Council of the City of Hoboken, by William S. Stuhr, their attorney, and say that in the record and proceedings aforesaid and also in the giving the judgment aforesaid there is manifest error in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in form aforesaid given upon the facts specially found by the said circuit court upon the trial and determination by said court of the issues above joined was given for the said Adolph E. Schmidt against the said The Mayor and Council of the City of Hoboken, whereas the said facts specially found do not warrant 173 the said judgment and were insufficient to support the same, and the judgment of the said circuit court upon the said facts specially found should have been given for the said The Mayor and Council of the City of Hoboken and against the said Adolph E. Schmidt, and that there is also error in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in form aforesaid given was given for the said Adolph E. Schmidt against the said The Mayor and Council of the City of Hoboken, whereas by the law of the land the said judgment ought to have been given for the said The Mayor and Council of the City of Hoboken against the said Adolph E. Schmidt; and the said The Mayor and Council of the City of Hoboken pray that the judgment aforesaid for the errors aforesaid and other errors in the record and proceedings aforesaid may be reversed, annulled, and altogether for nothing holden, and that they may be restored to all things which they have lost by occasion of the said judgment.

WILLIAM S. STUHR,
Att'y of Pl't'ffs in Error.

THOMAS N. McCARTER,
Of Counsel.

[Endorsed:] United States Supreme Court. The Mayor and Council of the City of Hoboken, pl't'ffs in error, *vs.* Adolph E. Schmidt, def't in error. In ejectment. On error to United States circuit court, district of New Jersey. Assignment of errors. William S. Stuhr, att'y.

12—172

174 UNITED STATES OF AMERICA, } ss:
District of New Jersey, }

I, S. D. Oliphant, clerk of the circuit court of the United States for the district of New Jersey, do hereby certify that the foregoing is a full, true, and complete transcript of the record in the cause of The Mayor and Council of the City of Hoboken against Adolph E. Schmidt and Leopold Goldschmidt as fully as the same appears on file and of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Trenton, in said district, this ninth day of October, A. D. 1884.

[The Seal of the U. S. Circuit Court, Dist. of New Jersey.]

S. D. OLIPHANT, *Clerk.*

Endorsed on cover: New Jersey C. C. U. S. No. 172. The Mayor and Council of the City of Hoboken, plaintiffs in error, *vs.* Adolph E. Schmidt. Filed November 4, 1884.